

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF OHIO  
3 EASTERN DIVISION

4 -----) MDL No. 2804

5 IN RE: NATIONAL )

6 PRESCRIPTION OPIATE )

7 LITIGATION )

8 -----) No. 1:17-MD-2804

9 THIS DOCUMENT RELATES TO: )

10 ALL CASES )

11 -----) Hon. Dan A. Polster

12

13 HIGHLY CONFIDENTIAL

14 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15

16 The videotaped deposition of MICHAEL M.

17 MILLER, M.D., called by the Plaintiffs for

18 examination, taken pursuant to the Federal Rules of

19 Civil Procedure of the United States District Courts

20 pertaining to the taking of depositions, taken before

21 JULIANA F. ZAJICEK, a Registered Professional Reporter

22 and a Certified Shorthand Reporter, at the offices of

23 Foley & Lardner, Suite 400, 150 East Gilman Street,

24 Madison, Wisconsin, on June 4, 2019, at 10:00 a.m.

1 APPEARANCES:

2 ON BEHALF OF THE PLAINTIFFS:

3 CRUEGER DICKINSON LLC  
4 4532 North Oakland Avenue  
5 Whitefish Bay, Wisconsin 53211  
6 414-210-3767

7 BY: ERIN DICKINSON, ESQ.  
8 ekd@cruegerdickinson.com

9 -and-

10

11 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
12 275 Battery Street, 29th Floor  
13 San Francisco, California 94111-3339  
14 415-956-1000

15 BY: DONALD C. ARBITBLIT, ESQ.  
16 darbitblit@lchb.com

17 -and-

18 BARON & BUDD, P.C.  
19 15910 Ventura Boulevard, Suite 1600  
20 Encino, California 91436  
21 818-839-2333

22 BY: JAY LICHTER, ESQ. (Telephonically)  
23 jlichter@baronbudd.com

24

-and-

1

2 SIMMONS HANLY CONROY LLC  
3 112 Madison Avenue, 7th floor  
4 New York, NY 10016  
5 212-784-6400

6 BY: SANFORD SMOKLER, ESQ. (Telephonically)  
7 ssmokler@simmonsfirm.com

8

9

10

11

12

1 APPEARANCES: (Continued)  
2 ON BEHALF OF AMERISOURCEBERGEN CORPORATION and  
3 AMERISOURCEBERGEN DRUG CORPORATION:

4 REED SMITH LLP  
5 1301 K Street, N.W., Suite 1000 - East Tower  
6 Washington, D.C. 20005  
7 202-414-9403

8 BY: KELLY H. HIBBERT, ESQ.  
9 khibbert@reedsmith.com

10 -and-

11 REED SMITH LLP  
12 Three Logan Square  
13 1717 Arch Street, Suite 3100  
14 Philadelphia, Pennsylvania 19103  
15 215-851-8100

16 BY: JEFFREY R. MELTON, ESQ. (Telephonically)  
17 jmelton@reedsmith.com

18 ON BEHALF OF HBC SERVICES:

19 MARCUS & SHAPIRA LLP  
20 One Oxford Centre, 35th Floor  
21 Pittsburgh, Pennsylvania 15219  
22 412-471-3490

23 BY: DARLENE M. NOWAK, ESQ. (Telephonically)  
24 nowak@marcus-shapira.com

ON BEHALF OF PURDUE PHARMA, L.P., PURDUE PHARMA, INC.  
and THE PURDUE FREDERICK COMPANY, INC.:

DECHERT LLP  
Three Bryant Park  
1095 Avenue of the Americas  
New York, New York 10036-6797

212-698-3500  
BY: NEGIN HADAGHIAN, ESQ. (Telephonically)  
negin.hadaghian@dechert.com

1 APPEARANCES: (Continued)

2 ON BEHALF OF JOHNSON & JOHNSON AND JANSSEN  
3 PHARMACEUTICALS, INC.:

4

O'MELVENY & MYERS LLP

5 1999 Avenue of the Stars, 8th Floor  
6 Los Angeles, California 90067

7 310-246-6705

8 BY: RYAN SNYDER, ESQ. (Telephonically)  
9 rsnyder@omm.com

10

ON BEHALF OF WEST VIRGINIA BOARD OF PHARMACY:

11

BAILEY & WYANT, PLLC

12 500 Virginia Street, Suite 600  
13 Charleston, West Virginia 25337

14 304-345-4222

15 BY: JUSTIN TAYLOR, ESQ. (Telephonically)  
16 jtaylor@baileywyant.com

17

18

19

20

21

22

23

24

1 I N D E X

2

3 WITNESS: PAGE:

4 MICHAEL M. MILLER, M.D.

5 EXAM BY MS. DICKINSON..... 7

6 EXAM BY MS. HIBBERT..... 270

7

8 \*\*\*\*\*

9

10 E X H I B I T S

11 MILLER EXHIBIT MARKED FOR I

12 No. 1 Plaintiffs' Notice of Oral 20

13 Videotaped Expert Deposition of

14 Michael Miller

15 No. 2 Expert Report of Michael M. 27

16 Miller, M.D., DFASAM, DLFAPA, May

17 10, 2019

18 No. 3 Updated version of Dr. Miller's CV 26

19 No. 4 Michael M. Miller, M.D., DFASAM, 21

20 DLFAPA - Supplemental List of

21 Materials Reviewed and Considered,

22 June 3, 2019

23

24

1 (WHEREUPON, certain documents were  
2 marked Miller Deposition Exhibit  
3 Nos. 1 through 4, for identification,  
4 as of 06/04/2019.)

5 THE VIDEOGRAPHER: We are now on the record. My  
6 name is Ben Stanson. I am a videographer for Golkow  
7 Litigation Services.

8 Today's date is June 4th, 2019, and the  
9 time is 10:22 a.m.

10 This video deposition is being held in  
11 Madison, Wisconsin in the matter of the National  
12 Prescription Opiate Litigation MDL No. 2804, pending  
13 in the US District Court, Northern District of Ohio,  
14 Eastern Division.

15 Are the -- the deponent is Michael Miller.  
16 Will counsel please identify yourselves  
17 for the record.

18 MS. DICKINSON: Erin Dickinson and Don Arbitblit  
19 for the Plaintiffs.

20 MS. HIBBERT: Kelly Hibbert from Reed Smith on  
21 behalf -- half of AmerisourceBergen Drug Corporation.

22 THE VIDEOGRAPHER: Counsel on the phone, if you  
23 could announce yourselves for the record.

24 MR. Snyder: This is Ryan Snyder from O'Melveny

1     & Myers on behalf of Johnson & Johnson and Janssen.

2           MS. HADAGHIAN: This is Negin Hadaghian from  
3     Dechert LLP on behalf of the Purdue Defendants.

4           MS. NOWAK: This is Darlene Nowak from Marcus &  
5     Shapira on behalf of HBC Services.

6           THE VIDEOGRAPHER: Thank you.

7                     Our court reporter is Juliana Zajicek.

8     Will you please swear in the witness.

9                     (WHEREUPON, the witness was duly  
10                    sworn.)

11                    MICHAEL M. MILLER, M.D.,  
12     called as a witness herein, having been first duly  
13     sworn, was examined and testified as follows:

14                               EXAMINATION

15     BY MS. DICKINSON:

16           Q.     Good morning, Dr. Miller. Could you state  
17     your full name for the record, please?

18           A.     Yes. Michael M. Miller, M.D.

19           Q.     Okay. Dr. Miller, we have just met a few  
20     minutes ago, correct?

21           A.     Yes.

22           Q.     I -- can you state for the record whether  
23     you've ever been known by any other name other than  
24     Michael M. Miller?

1           A.       I have not.

2           Q.       Okay. Can you confirm your home address  
3 for me, please?

4           MS. HIBBERT: Objection. That's calling for  
5 private information.

6                   Does Dr. Miller list his address, his  
7 professional address, on his CV? I'm sure he does.  
8 Is that not sufficient, Counsel?

9           MS. DICKINSON: It just is an easier way of  
10 getting to the question. I'm -- I'm unaware of ever  
11 having this be an issue.

12 BY MS. DICKINSON:

13          Q.       What's your home address?

14          MS. HIBBERT: How about a professional address?  
15 That should be sufficient.

16          MS. DICKINSON: Are you really instructing him  
17 not to answer the question of where he lives?

18          MS. HIBBERT: Yes. A professional address  
19 should be sufficient.

20          MS. DICKINSON: Okay. Well, we'll have to deal  
21 with that issue, too, as well, apparently.

22 BY MS. DICKINSON:

23          Q.       What city do you live in, Dr. Miller?

24          A.       Madison.



1 Q. Okay. How long have you lived in Madison?

2 A. 30 years.

3 Q. Okay. Have you lived anywhere else in the  
4 last 30 years?

5 A. No.

6 Q. Okay. And what is your business address  
7 currently?

8 A. It depends on which business you speak of.  
9 So I have a -- a private practice that's located at  
10 6333 Odana Road, Suite 3, Madison 53719.

11 Q. Okay. And do you have any other business  
12 addresses currently other than the Odana Road address?

13 A. I use as my business address the address  
14 of my LLC, which is 22 Settler Hill Circle in Madison  
15 53717.

16 Q. And which LLC is that that uses that  
17 address?

18 A. It is entitled Michael M. Miller, M.D.,  
19 Consulting LLC.

20 Q. Okay. Are you still practicing medicine  
21 today?

22 A. I do.

23 Q. And where do you practice medicine?

24 A. I practice in three locations.

1 Q. Okay. What are those?

2 A. I have a halftime teaching position at the  
3 University of Wisconsin. So I teach addiction  
4 medicine fellows and see patients with them. And we  
5 also work at Access Community Health Center one  
6 afternoon a week seeing outpatients. I have a 12-hour  
7 week position with Rock County Department of Human  
8 Services in their therapeutic court services area. So  
9 that's a drug court and an OWI court, and that is at  
10 303 West Court Street in Janesville, Wisconsin. So,  
11 again, that's 12 hours a week.

12 My private practice is a practice of not  
13 more than ten patients. Right now I think I have a  
14 census of seven. They are all licensed professionals.  
15 I think I have one attorney out of that bunch, but the  
16 rest are physicians, nurses, pharmacists, dentists,  
17 therapists, psychologists who have addiction issues  
18 and are being monitored. And so that's the Odana Road  
19 address.

20 Those are the three locations where I see  
21 patients.

22 Q. Okay. When you said halftime position at  
23 UW, how many hours a week do you spend teaching at UW?

24 A. 20.

1 Q. Dr. Miller, how many years have you worked  
2 in the area of addiction medicine?

3 A. I generally date it to the beginning of my  
4 fellowship because I worked in addiction in the -- in  
5 my fellowship, but I've been in practice, done with  
6 training since 1983.

7 Q. Okay. Ooh, math is not my strong point.  
8 How many years is that?

9 A. That's 36.

10 Q. Have you alls -- also worked in the field  
11 of public health?

12 A. I am not a public health professional, but  
13 I have worked in that area. I could describe.

14 Q. Okay. Can you just briefly describe your  
15 work in the area of public health?

16 A. Right. Well, currently I am the  
17 chair-elect and as of next week will be the chair of  
18 the American Medical Association Council on Science  
19 and Public Health where we assist the AMA to develop  
20 policy on public health. In Wisconsin I was a  
21 volunteer consultant to the Division of Public Health  
22 in its development of the 20 -- or I'm sorry -- the  
23 2000 and 2010 state health plans.

24 Excuse me. I've got a cord that's around

1 my foot and it is very uncomfortable. So let me try  
2 to undo.

3 Q. Of course.

4 A. There we go. So -- pardon me.

5 So -- and actually, I coined the term, our  
6 state health plan is called "Healthiest  
7 Wisconsin 2000" and "Healthiest Wisconsin 2010." And  
8 so I -- the CV would have the actual titles. I worked  
9 on the addiction committee or subcommittee or  
10 something like that with one addition, and I was on  
11 the steering committee for the overall health plan, I  
12 think for the second one, which was the 2010 health  
13 plan. So these were volunteer things that I did.

14 Q. Okay. I thought I saw in your CV, have  
15 you also taught at the School of Public Health at UW?

16 A. The -- the sch -- the medical school  
17 changed its name to the School of Medicine and Public  
18 Health. So it's the medical school and the public  
19 health school all blended into one. They now  
20 encourage students to spend five years and get an MPH  
21 while they get their M.D.s, but there is -- there is  
22 not a separate public health school in Madison.

23 Q. In your halftime position teaching at UW,  
24 do you teach the MPH students as well as the medical

1 students?

2 A. Actually, the preventive medicine  
3 residency involves physicians who get an MPH during  
4 their two-year preventive medicine residency placement  
5 here, and I'm teaching one of their students now.

6 Q. Okay. Have you in the course of your  
7 experience sat on any opioid task forces?

8 A. Yes.

9 Q. Okay. Which ones?

10 A. One for the Wisconsin Medical Society,  
11 which I think is called Opioid Task Force, one for  
12 Dane County, and that particular task force has  
13 several subgroups and one is a health professionals  
14 group and that's the one I sit on, which is  
15 extraordinarily interesting, and I'm currently  
16 co-chair of that group. And the staff for that group  
17 is a wonderful organization called Safe Communities of  
18 Madison and Dane County. We have a merged city/county  
19 health department. So I -- I don't know how that task  
20 force brands itself as a county/city or city/county.

21 Q. Okay. And is -- is it fair to say that  
22 all of those task forces were formed to address the  
23 opioid epidemic? Is that a fair characterization of  
24 the purpose of those task forces?

1 MS. HIBBERT: Objection to form.

2 BY THE WITNESS:

3 A. The -- I would not respond in that way. I  
4 would say that the Wisconsin Medical Society task  
5 force was developed to assist practicing physicians in  
6 improving their practice with regard to opioid  
7 prescribing. And the changes in opioid prescribing  
8 and the adverse effects of prescribing were part of  
9 the impetus to create that.

10 The Dane County task force came out of an  
11 initiative concerned about overdose deaths in our  
12 county, yes, ma'am.

13 BY MS. DICKINSON:

14 Q. Dr. Miller, is there an opioid epidemic in  
15 the United States today?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. People use that term, but I say there are  
19 several.

20 BY MS. DICKINSON:

21 Q. Okay. Is there one today?

22 MS. HIBBERT: Objection to form, asked and  
23 answered.

24 BY THE WITNESS:

1           A.     An epidemic related to opioids, yes,  
2     definitely.

3     BY MS. DICKINSON:

4           Q.     Is there an opioid epidemic in Wisconsin  
5     today?

6           MS. HIBBERT:   Objection to form.

7     BY THE WITNESS:

8           A.     There certainly is an epidemic of overdose  
9     deaths in Wisconsin today.

10    BY MS. DICKINSON:

11          Q.     Dr. Miller, you understand that you are  
12    here giving testimony in the multidistrict litigation.  
13    It's called the In Re Prescription Opioid Litigation,  
14    is that right?

15          A.     Yes, ma'am.

16          Q.     Okay. You understand that I represent  
17    some of the communities' plaintiffs in that  
18    litigation.

19                   Is that your understanding?

20          MS. HIBBERT:   Objection to form.

21    BY THE WITNESS:

22          A.     I'm -- you are -- you are informing me of  
23    such, I'll accept that.

24    BY MS. DICKINSON:

1 Q. Okay. And you and I have obviously not  
2 met before today, is that right?

3 A. That's right.

4 Q. Okay. And you are here today offering  
5 testimony on behor -- behalf of AmerisourceBergen Drug  
6 Corporation, is that right?

7 A. I didn't know the word "drug" was in the  
8 title until I just heard it this morning.

9 Q. Okay. You have -- you are here giving  
10 testimony on behalf of the company that is referred to  
11 as AmerisourceBergen, is that fair?

12 A. That's very fair.

13 Q. Okay. Who is AmerisourceBergen Drug  
14 Corporation?

15 MS. HIBBERT: Objection to form, calls for  
16 speculation.

17 BY THE WITNESS:

18 A. Yeah...

19 BY MS. DICKINSON:

20 Q. What's your understanding of what the  
21 company is that you are providing testimony on behalf  
22 of?

23 A. I have not looked at their SEC filings or  
24 their website to know what all they are, but one of



1 the things they do is they serve as one of the major  
2 distributors of pharmaceuticals to retail pharmacies  
3 and hospitals in the United States.

4 Q. And are they one of the major distributors  
5 of prescription opioids?

6 A. I haven't --

7 MS. HIBBERT: Objection to form, calls for  
8 speculation.

9 BY THE WITNESS:

10 A. Yes, I have no idea. I honestly have no  
11 idea.

12 BY MS. DICKINSON:

13 Q. You don't know?

14 A. I don't know the -- I don't know their  
15 market share for opioids. That was the form of your  
16 question. I have no idea.

17 Q. Okay. You mentioned in your report that  
18 your opinions may be offered on behalf of certain  
19 other distributor defendants in this consolidated  
20 action.

21 Which ones?

22 A. I don't recall, and that's a very honest  
23 answer.

24 Q. Have you been retained by any other

1 company to provide expert witness testimony in this  
2 matter?

3 A. I will give the answer to the best of my  
4 ability. I believe that there is a joint defense  
5 agreement. I don't think I signed anything.

6 Q. Are you aware --

7 A. But I agreed -- I agreed to be a part of a  
8 joint defense process because that was considered to  
9 be something that several defendants wanted to do.

10 MS. HIBBERT: And, Counsel, first I'll advise  
11 the witness and instruct the witness not to disclose  
12 any communications that have taken place with any of  
13 the attorneys involved in this matter.

14 And, Counsel, for the record, I will  
15 represent the specific defendants that have adopted  
16 Dr. Miller's opinions set forth in his report are  
17 disclosed in the certain disclosures submitted with  
18 those defendants' expert reports. And for the record,  
19 I believe the distributor defendants referenced in  
20 Dr. Miller's report are Cardinal and McKesson.

21 BY MS. DICKINSON:

22 Q. Dr. Miller, were you aware before sitting  
23 here today listening to what counsel just said on the  
24 record that you were offering opinions regarding

1 Cardinal and McKesson?

2 A. Yes, I'm offering -- I'm offering opinions  
3 on behalf of more than one distributor defendant in  
4 this litigation.

5 Q. Okay. And are you aware that your -- your  
6 report does not specifically refer to other  
7 distributor defendants by name?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. I don't believe my report lists them by  
11 name.

12 BY MS. DICKINSON:

13 Q. Okay. Is it your understanding that  
14 you've been retained by the AmerisourceBergen Drug  
15 company to offer expert testimony in this case?

16 A. Yes.

17 Q. Okay. Have you signed a retainer  
18 agreement with any other defendant in the case?

19 MS. HIBBERT: Objection to form.

20 BY THE WITNESS:

21 A. Not that I recall.

22 BY MS. DICKINSON:

23 Q. Let's do a little housekeeping first.

24 I'm going to hand you what's been marked

1 as Exhibit 1 to your deposition.

2 Have you ever seen this document?

3 A. A copy of it, yes.

4 Q. Okay. When did you first receive a copy  
5 of Exhibit 1?

6 A. Oh, let me think. It's dated May 21, so  
7 it's been within the last two weeks.

8 Q. Okay. You don't recall other than within  
9 the last two weeks more specifically when you were  
10 given a copy of Exhibit 1?

11 A. No, ma'am. I would say it was closer to  
12 May 21 than -- than it is to today.

13 Q. Okay. And can you turn to the last  
14 page of Exhibit 1, please. The last page of Exhibit 1  
15 has a title "Exhibit A."

16 Do you see that?

17 A. Yes, ma'am.

18 Q. Okay. And Exhibit A requests that the  
19 deponent bring a number of materials. There are three  
20 items listed there.

21 Do you see that?

22 A. Yes, ma'am.

23 Q. Did you review these items at the time you  
24 received Exhibit 1?

1           A.       Since then I have, yes.

2           Q.       Okay. In Item 1 requests: "All documents  
3 or other materials you reviewed since the date of your  
4 report that you did not specifically identify in your  
5 report in preparation for your testimony today."

6                   Are there items responsive to Question 1?

7           A.       Yes.

8           MS. HIBBERT: Objection to form.

9                   Give me a pause to put an objection on the  
10 record before you answer, okay.

11          THE WITNESS: Okay.

12   BY MS. DICKINSON:

13          Q.       And what are those items?

14          A.       There were several additional journal  
15 articles and I did not bring the list with me and I  
16 have seen the document that responded to this request  
17 or demand.

18          Q.       I'm going to hand you what's been marked  
19 as Plaintiffs' Exhibit 4 -- or Miller Exhibit 4.

20                   Are -- is Miller Exhibit 4 a list of the  
21 materials that you have reviewed since the time of  
22 preparing your report?

23          A.       That were not specifically listed in my  
24 report at the time, yes.

1           Q.     Okay. Item 2 on this list is an --  
2     requests: "An itemization of hours spent, and  
3     compensated pay" -- "compensation paid, or to be paid,  
4     for your work in this matter and your staff's work in  
5     this matter, including all invoices you have submitted  
6     to counsel."

7                     Do you see that?

8           A.     Yes, ma'am.

9           MS. HIBBERT: Objection to form.

10          THE WITNESS: Oh, I'm sorry.

11     BY MS. DICKINSON:

12          Q.     Did you bring an itemization of the hours  
13     you've spent to date including all of your invoices  
14     that you have submitted to counsel with you today?

15          MS. HIBBERT: Objection, as previously discussed  
16     off the record, but for the record we have submitted  
17     our objections to this request including the format in  
18     which these requests were made, being a Notice of  
19     Deposition as opposed to a Rule 45 subpoena. The  
20     issue is under consideration by the Special Master.  
21     There has been recent correspondence, as recent as  
22     Sunday on this, if not Monday morning, and we are  
23     still awaiting guidance from Special Master Cohen as  
24     to the specifics as to what indeed needs to be

1 produced. And as I specified in my e-mail to counsel  
2 last night, Mr. -- sorry -- Dr. Miller is prepared to  
3 testify here today about the number of hours spent and  
4 invoiced in this matter. And -- and the amount of  
5 monies invoiced in this matter as well.

6 MS. DICKINSON: So for the record, nothing is  
7 being produced with respect to Request No. 2,  
8 including redacted invoices that would show the number  
9 of hours spent and the total amount, is that correct,  
10 Counsel?

11 MS. HIBBERT: Nothing has been produced at this  
12 time.

13 MS. DICKINSON: Okay.

14 BY MS. DICKINSON:

15 Q. Dr. Miller, do you keep an itemization of  
16 yours hours and time spent in this case?

17 A. I do.

18 Q. Okay. Do you submit it to counsel?

19 A. I do.

20 Q. Okay. And is that in the form of a  
21 monthly invoice?

22 MS. HIBBERT: Objection to form.

23 BY THE WITNESS:

24 A. It is.

1 BY MS. DICKINSON:

2 Q. Okay. Do any of the detail in the  
3 mount -- monthly invoices summarize actual  
4 conversations or the substance of conversations  
5 between you and counsel to your knowledge?

6 MS. HIBBERT: Objection to form, calls for a  
7 legal conclusion that Dr. Miller is not qualified to  
8 provide.

9 But to the extent that you can answer with  
10 that qualification, Dr. Miller, please do.

11 BY THE WITNESS:

12 A. I'm going to read her question, if I may.

13 BY MS. DICKINSON:

14 Q. I'll just ask it maybe a little more  
15 simply, Dr. Miller.

16 Do any of the detail in your invoices  
17 summarize the actual substance of what you may have  
18 discussed with counsel in this case?

19 MS. HIBBERT: Objection to form. Again, calls  
20 for a legal conclusion. Without those invoices in  
21 front of him, I think it's pretty impossible for him  
22 to say whether or not every single itemized narrative  
23 description may include information pertaining to  
24 conversations with counsel in this case.



1                   Dr. Miller, again, to the extent that you  
2     can answer with that qualification and instruction,  
3     please do.

4           MS. DICKINSON:   And I'm going to object --  
5     object to the speaking objections.   If you have an  
6     objection to form, that's fine.   If you are going to  
7     instruct him not to answer, that's fine.   But beyond  
8     that, you are coaching the witness.

9     BY MS. DICKINSON:

10           Q.     So could you --

11           MS. HIBBERT:   If you're going to --

12     BY MS. DICKINSON:

13           Q.     -- answer to the best of your ability,  
14     Dr. Miller?

15           MS. HIBBERT:   If you are going to delve into  
16     privileged communications with Dr. Miller in this  
17     case --

18           MS. DICKINSON:   I am actually not asking him  
19     that.   I'm asking whether they do contain such  
20     communications.

21           MS. HIBBERT:   You're asking him for a legal  
22     conclusion which is improper.

23     BY MS. DICKINSON:

24           Q.     I am not asking you the substance of the

1 conversation, okay? I'm asking whether your invoices  
2 record substance of conversations or just something  
3 else?

4 MS. HIBBERT: Objection to form, calls for a  
5 legal conclusion.

6 BY THE WITNESS:

7 A. They do not have anything on the substance  
8 of conversations.

9 BY MS. DICKINSON:

10 Q. Okay. And Item 3 is a copy -- requests a  
11 copy of your most current and accurate curriculum  
12 vitae. I am going to hand you what has been marked as  
13 Exhibit 3.

14 Exhibit 3 is what was provided to us by  
15 counsel as an updated version of your curriculum  
16 vitae.

17 Does that look like an updated version of  
18 your curriculum vitae?

19 MS. HIBBERT: Objection to form.

20 BY THE WITNESS:

21 A. It does, and if I may, it also lists two  
22 talks I'm about to give that I haven't given yet.

23 BY MS. DICKINSON:

24 Q. Okay. We are going to cover that in just

1 a moment. Let me do one more housekeeping matter  
2 before we do.

3 I'm going to hand you what has been marked  
4 as Miller 2.

5 A. Oh, yes.

6 Q. Can you reach? There you go.

7 Dr. Miller, I've handed you what has been  
8 marked as Miller Exhibit 2. I'll represent to you  
9 that that is the report that was provided to us by  
10 counsel on May 10th.

11 Does that look correct to you?

12 MS. HIBBERT: Objection to form.

13 BY THE WITNESS:

14 A. It looks right to me.

15 BY MS. DICKINSON:

16 Q. Okay. It is dated May 10th on the front  
17 cover, is that right?

18 A. It is.

19 Q. Okay. And Exhibit 2 has two appendices to  
20 it, is that correct?

21 A. That is correct.

22 Q. Okay. And Appendix A that was attached to  
23 what was produced to Plaintiffs on May 10th, 2019,  
24 looks to be a copy of your curriculum vitae, is that

1 fair?

2 A. Right. There was slight revisions. I  
3 revise it a few times a month as things come along.  
4 And the what -- and what -- and the exhibit you gave  
5 me before is a more up-to-date version, but very  
6 little difference than what's in the report.

7 Q. That was going to be my next question.

8 Is Exhibit A the updated version of the CV  
9 that was produced on May 10th?

10 A. No, no, no.

11 Q. Exhibit 3?

12 A. Please restate your question.

13 Q. Is Exhibit -- what I handed you as  
14 Exhibit 3, is that the updated version of your CV that  
15 is included in Exhibit 2?

16 A. Yes.

17 Q. Okay. Tell -- could you tell me on  
18 Exhibit 3 what was added, that might make the day  
19 shorter, to -- if you know?

20 A. Oh, my goodness. I'm trying to recall any  
21 updates since May 10 in areas other than additional  
22 professional presentations, and I would say end dates  
23 of certain committee involvements.

24 Q. Okay.

1           A.       I know that my -- I can speak to one  
2       specific fact, if you really want to know. Meriter  
3       Hospital is a hospital where I joined the medical  
4       staff in 1989. I was on the active staff for  
5       21-and-a-half years and served as a medical director  
6       of their addiction services. I have remained on their  
7       medical staff in different capacities since April  
8       of 1989. And as of June 1 I relinquished my  
9       consulting privileges and am now considered a member  
10      of the honorary medical staff as a retiree. So this  
11      is the year I'm transitioning into retirement. And  
12      what that means is that I don't pay dues anymore for  
13      the next -- for the next dues year.

14           Q.       And is that change noted on your current  
15      CV that -- which is marked as Exhibit 3?

16           A.       Yes. If you were to painstakingly go  
17      through and compare them line by line, you would see  
18      that the one in Exhibit 2 says I am on the medical  
19      staff and the one in Exhibit 3 says I switched to  
20      honorary status as of three days ago.

21           Q.       That was three days ago. That's what I'm  
22      trying to avoid is to painstakingly walk through and  
23      figure out what's new.

24                    So if you can, can you identify anything

1     else that was added since May 10th to the best of your  
2     ability on Exhibit 3?

3             A.     I -- I honestly can't recall.

4             Q.     Fair enough.

5                     I think you testified, I just want to be  
6     clear for the record, that you may have added a few  
7     presentations to Exhibit 3 that are new since  
8     May 10th, is that fair?

9             A.     Um-hum.

10            Q.     Okay.

11                   Other than presentations as you are  
12     sitting here today and the job that we just talked  
13     about at Meriter, you can't recall any other additions  
14     to Exhibit 3 that would have been additional since  
15     May 10th?

16            A.     May I reference the documents?

17            Q.     Of course.

18            A.     Okay.  Oops.

19            THE WITNESS:  Thank you.

20            MS. HIBBERT:  You're welcome.

21     BY THE WITNESS:

22            A.     I looked at what I was looking for and  
23     some of the updates were, in fact, done by May 10 and  
24     so the newer one reflects nothing newer.

1 BY MS. DICKINSON:

2 Q. Okay. Exhibit 3, is that your most  
3 current curriculum vitae?

4 A. It is.

5 Q. Okay. To the best of your ability, does  
6 Exhibit 3 accurately summarize your work and  
7 professional history?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. Yes.

11 BY MS. DICKINSON:

12 Q. Dr. Miller, I forgot to ask you this, but  
13 have you ever been deposed before?

14 A. I have.

15 Q. Okay. How many times?

16 A. My memory on that is really not as good as  
17 it should be. I've reflected on this obviously in  
18 preparation for today. And I -- I think in terms of  
19 court reporters and videos and things like that, and  
20 there have been a number of times that I've been in  
21 that scenario, but I don't know if those were all  
22 depositions. I'm trying to figure it out.

23 Q. Okay.

24 A. I know that I was deposed in a

1 professional liability case and I -- I've been deposed  
2 in other cases and the one thing that I can tell you  
3 is that I think my professional life in general and  
4 days like today in specific would have been better if  
5 I had kept detailed records of every legal thing I  
6 ever did since day one. And I never actually kept a  
7 tally or a spreadsheet -- or a flow sheet. So I'm  
8 relying on my memory.

9 I've been involved in legal cases, but I  
10 don't have a recollection of being formally deposed  
11 except that most recent one. I believe I've been  
12 deposed as a fact witness somewhere, but never as an  
13 expert until today.

14 Q. Okay. You actually guessed one of my  
15 questions.

16 Okay. Doctor, you testified that you may  
17 have been deposed in a professional liability case.  
18 What case was that?

19 A. I cannot give you the name, but I can tell  
20 you something about it.

21 Q. Okay. Can you tell me something about it?

22 A. Yes. When I was working as medical  
23 director of the Herrington, with an E, Recovery Center  
24 at Rogers Memorial Hospital, now rebranded as Rogers



1 Behavioral Health, there was a patient who died while  
2 in residential treatment. The estate filed an action  
3 against various parties, including the hospital,  
4 various employees, and at least two physicians, one of  
5 whom was the attending physician and one of whom was  
6 myself as the medical director. We were originally  
7 named in the litigation and in the middle of the  
8 process -- or in the midst of the process I was  
9 removed from the case.

10 Q. Were you removed from the case through a  
11 settlement?

12 A. No.

13 Q. How were you removed from the case?

14 A. The plaintiffs decided to not pursue that  
15 line of litigation.

16 Q. Okay. And you think you gave a  
17 deposition, much like we are doing today in that case?

18 A. Oh, I know I did.

19 Q. Okay. It sounds like it was not a  
20 pleasant memory.

21 A. No, I -- quite frankly, I am really  
22 impressed by the whole process and the -- the way  
23 attorneys are and the way it's done. I mean, I used  
24 to be a high school drama coach and I just -- I just

1 think it's fascinating and -- and the preparation you  
2 folks do. So, no, I -- it was -- I was cool with it.

3 Q. That is much kinder than most people that  
4 are sitting in your chair, so I do appreciate it.  
5 That is not usually people's reaction to a deposition,  
6 but okay.

7 Did you testify at the trial in that case  
8 or a trial in that case?

9 A. I did not.

10 Q. Okay. What year was that case in?

11 A. I believe it was 2016.

12 Q. Did you treat the patient that was in that  
13 case or were you just sued as -- in your capacity as  
14 the medical director?

15 A. That requires more specificity.

16 Q. Were you a treating physician of the  
17 patient who died?

18 A. I was not his attending physician.

19 Q. Okay. Had you treated him, though, at  
20 all, as other than a non-attending?

21 A. I had seen him as a consultant.

22 Q. Okay. Do you know how many times you had  
23 seen him as a consultant?

24 A. Actually, I'd like to restate my answer.

1 I saw him as -- as a covering physician. The day I  
2 met the individual, the deceased, I had not done a  
3 consult formally. That was the first to sit down with  
4 the individual and his physician was out of the  
5 building and I saw the individual hours before the  
6 demise. And so because I had had a clinical  
7 interaction and charted on it, I was -- I was in the  
8 chart.

9 Q. You are doing a really nice job. I  
10 actually -- one other thing I forgot was to go through  
11 some basic ground rules of a deposition. Since you've  
12 given one, this is going to be fairly easy.

13 The court reporter is here taking down  
14 everything we say. We can't talk over each other.  
15 We'll do our best. Is that okay?

16 A. Yes, ma'am.

17 Q. You are doing a nice job of answering  
18 verbally instead of "uh-huhs," "uhn-uhns," saying  
19 "yes" or "no," but that is a way that this record can  
20 be clean. So we'll try to do that. I'll try to  
21 remind you if you don't, okay?

22 A. That's fine.

23 Q. All right. You understand that you are  
24 under oath today, correct?

1 A. Yes, ma'am.

2 Q. If at any time during the course of the  
3 deposition you don't understand the question I'm  
4 asking you, please ask me to rephrase, okay. I will  
5 assume that if you are answering the question you've  
6 understood the question I'm asking.

7 Okay?

8 A. Yes, ma'am.

9 Q. All right. Fair.

10 You are doing a very nice job of it so  
11 far, so I'll give you a compliment. You gave lawyers  
12 a compliment. I will give you a compliment.

13 You said a minute ago that you had never  
14 given a deposition as an expert witness, is that  
15 correct?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. I can't swear that I haven't, but I can't  
19 recall a specific one.

20 BY MS. DICKINSON:

21 Q. Okay. Have you ever served as an expert  
22 witness before?

23 MS. HIBBERT: Objection to form to the extent  
24 the question is asking for information about any

1 expert retentions in cases in which Dr. Miller was not  
2 disclosed as an expert.

3 If you can answer, Dr. Miller, go ahead.

4 BY MS. DICKINSON:

5 Q. Dr. Miller, have you ever been hired as an  
6 expert witness before?

7 MS. HIBBERT: Same objection.

8 BY THE WITNESS:

9 A. That's --

10 MS. HIBBERT: I'll -- I'll instruct not to  
11 answer as to any cases in which you were hired as an  
12 expert witness and not disclosed, the specifics of  
13 those, okay.

14 BY THE WITNESS:

15 A. Ms. Dickinson, I believe I've just been  
16 instructed by counsel not to answer.

17 BY MS. DICKINSON:

18 Q. Okay. Dr. Miller, just so we are clear  
19 and -- and the record is clear, I'm not asking you to  
20 disclose which cases or for who. I'm just asking  
21 whether you have been hired as an expert witness  
22 before. So please don't answer beyond the question of  
23 have you been hired as an expert witness before.

24 But have you been hired as an expert

1 witness before?

2 A. I will answer that by saying I've been  
3 asked to provide expert witness services to law firms  
4 in the past.

5 Q. Okay. On how many occasions?

6 A. Four for which I have a clear memory and I  
7 would think a couple more.

8 Q. Is it fair to say somewhere between four  
9 and ten?

10 MS. HIBBERT: Objection to form.

11 BY THE WITNESS:

12 A. I would say as an expert witness below ten  
13 is the definite correct answer.

14 BY MS. DICKINSON:

15 Q. When was the last time before this case  
16 that you were hired as an expert witness?

17 A. One of two cases, and I can speak to  
18 either. I don't recall the sequence.

19 Q. Okay. Those two cases, roughly when was  
20 the last -- when was that time that you were hired as  
21 an expert witness? I'm just trying to get a sense of  
22 when the last time you served as an expert or were  
23 hired as one before this case.

24 A. I think those would both be in the

1 vicinity of four to eight years ago.

2 Q. Have you ever discussed serving as an  
3 expert witness with a set of lawyers where you decided  
4 not to serve as an expert?

5 MS. HIBBERT: Objection to form. Again, with  
6 the qualification as to she is not asking about the  
7 specifics of those conversations, just yes or no.

8 BY THE WITNESS:

9 A. Yes.

10 BY MS. DICKINSON:

11 Q. How many times?

12 A. Less than six.

13 Q. Okay. When was the last time that you  
14 were asked to serve as an expert but declined to do  
15 so?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. Within the last 60 days.

19 BY MS. DICKINSON:

20 Q. And was that case about -- had -- did that  
21 case have anything to do with opioids?

22 MS. HIBBERT: Objection to form. Again, not  
23 asking for anything more specific than yes or no  
24 there.

1                   And, Counsel, I'm not trying to coach the  
2     witness in any way. If you want to say the same thing  
3     in your question, that's fine, too.

4           A.     I --

5           MS. HIBBERT: Dr. Miller, just let me finish  
6     real quick.

7                   I'm not trying to coach the witness. I  
8     just want to make sure that we are protecting any  
9     confidential communications with any other attorneys,  
10    okay.

11                   Go ahead, Doctor.

12    BY THE WITNESS:

13           A.     I attest, I'm not being coached because  
14    I've figured this out myself. Anything to do with  
15    opioids, yes.

16    BY MS. DICKINSON:

17           Q.     And in that instance who approached you  
18    about serving as an expert witness?

19           MS. HIBBERT: Objection to form.

20                   I'll instruct you not to answer that  
21    question. That's getting -- that's crossing the line  
22    as to --

23           MS. DICKINSON: Counsel, unless it is someone he  
24    has a current retainer agreement, I -- I don't



1 understand how any of that is protected. We've asked  
2 and been given testimony on this in every case. If --  
3 prior to a retainer letter, there is no privilege. So  
4 if you want to instruct him not to answer, we may have  
5 to call the special master, but I'm asking for -- I  
6 can ask it a different way. I can ask if he was  
7 retained in the case. He just said he wasn't. So I'm  
8 entitled to explore who approached him and why he  
9 didn't do it.

10 MS. HIBBERT: I think you need to ask clarifying  
11 questions, because I think Dr. Miller might be  
12 confused. If he was never retained, then I'd say  
13 that's a fair question. If he was retained to review  
14 any records and offer any opinions but not  
15 disclosed --

16 MS. DICKINSON: Fair.

17 MS. HIBBERT: -- that's not fair, okay.

18 MS. DICKINSON: Fair, but that's not what I was  
19 asking. So we'll go at this --

20 BY MS. DICKINSON:

21 Q. I want to make sure you totally understand  
22 what I'm asking, okay, Dr. Miller?

23 A few minutes ago I asked whether you had  
24 ever been asked to work as an expert witness and

1 declined to do so.

2 Do you remember that?

3 A. Yes, ma'am.

4 Q. And that's what I'm asking about right  
5 now. I'm not asking about instances in which you  
6 actually accepted and were retained to work as an  
7 expert, okay?

8 A. Correct.

9 Q. And you said there was one in the last  
10 60 days in which you were asked to work as an expert  
11 but you declined?

12 A. Correct.

13 Q. Okay. And so what was the substance of  
14 that case?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. That was a case that I would say doesn't  
18 have anything to do with opioids, but your question  
19 was so broad, were there any patients ever prescribed  
20 opioids in all of those cases, yes. And were there  
21 drug tests that looked for opioids in those cases,  
22 yes.

23 But in the -- in that particular case  
24 there were questions -- there -- there was the

1 opportunity to provide expert testimony on behalf of a  
2 company that has a 1-800 number phone bank to connect  
3 people with treatment centers and has a company that  
4 does urine drug tests. And I was asked if I would be  
5 willing to provide expert testimony with regard to  
6 those aspects of a very complex litigation. And I  
7 said I'm -- I just don't have the time, I cannot do  
8 it.

9 BY MS. DICKINSON:

10 Q. Okay. And who was that company?

11 A. There were two separate firms that find  
12 experts for law firms. One was Thomson Reuters and  
13 another is a company that is named in my CV, and if I  
14 could look at it, I could find it for you.

15 Q. Of course.

16 A. It's called Vident Partners in York, Maine  
17 on the bottom of Page 12 of Exhibit 3.

18 Q. Is it fair to say that both Thomson  
19 Reuters and Vident Partners contacted you about  
20 serving as an expert witness?

21 MS. HIBBERT: Objection to form.

22 BY THE WITNESS:

23 A. They contacted me to say would you be  
24 interested in providing expert witness services in our

1 case.

2 BY MS. DICKINSON:

3 Q. Okay. And is that because you are listed  
4 as an expert for Thomson Reuters or Vident Partners as  
5 someone who may be interested in expert testimony?

6 MS. HIBBERT: Objection to form.

7 BY THE WITNESS:

8 A. I don't know if I've signed anything with  
9 Vident, but one of the attorneys simply knows me from  
10 a previous case.

11 Thomson Reuters, I believe I signed a --  
12 an agreement saying, yeah, you can call me if you'd  
13 like.

14 BY MS. DICKINSON:

15 Q. Could you give me a list of the companies,  
16 the expert finder companies that you are currently  
17 working with?

18 A. Those two.

19 Q. Okay.

20 A. Thomson Reuters Expert Witness Services is  
21 initials TREWS, Vident Partners of York, Maine and  
22 the -- the Gerson Lehrman Group, which goes by GLG.

23 Q. Okay. When did you first start working  
24 with GLG?

1           A.       My CV says July 2018 to the present and I  
2       would say that's correct.

3           Q.       What is the nature of your relationship  
4       with GLG?

5           MS. HIBBERT:   Objection to form.

6       BY THE WITNESS:

7           A.       It is interesting.   GLG sends blast  
8       e-mails out to physicians and says, Would you like to  
9       do this, and a lot of what they have is surveys where  
10      you spend a half hour or an hour or whatever, and a  
11      lot of it is market research for pharmaceutical  
12      companies.   It looks like a lot of it is for venture  
13      capital.   And they want to say, Do you have experience  
14      in this domain and would you provide us some  
15      information and blah, blah, blah.   And they cap their  
16      rates at 250 an hour, and I'm not interested in a lot  
17      of the things they have, but it's -- but when I was  
18      expanding my consultation business, I said, Well, I'll  
19      sign up with these people and see what happens.

20                I did not realize that within GLG they had  
21      an expert witness finding.   So it can include that,  
22      but most of it is just the survey stuff.   I believe  
23      that's my answer to you.

24      BY MS. DICKINSON:

1 Q. And did there come a point in time when  
2 you were expanding your consulting business that you  
3 did sign up with several expert witness finders?

4 MS. HIBBERT: Objection to form.

5 BY THE WITNESS:

6 A. The only one that I -- I'm trying to think  
7 of how to answer that question, because I have had a  
8 dialogue relationship with -- with TREWS for a while,  
9 but I put in my CV May of '19 because that probably  
10 means that I signed something, and I did not -- I  
11 was -- I had a -- I had a dialogue relationship with  
12 them before I signed anything.

13 With Vident they found me for another case  
14 several years ago, and that's one of the ones I  
15 mentioned to you. And if I signed something, it would  
16 be very recent. So those actually predated. So the  
17 form of your question was since I decided to expand my  
18 consultation business have I signed up with firms, and  
19 the only firm that I have a new relationship with  
20 since I left full-time employment at Rogers is GLG.

21 BY MS. DICKINSON:

22 Q. Okay. Well, let's talk about -- actually,  
23 when -- when did you decide to expand your consulting  
24 business?

1 A. In the summer of 2018.

2 Q. I'm sorry. Did you say '18 or '19? I  
3 didn't hear you.

4 A. I said '18.

5 Q. So last summer?

6 A. Yes, ma'am.

7 Q. Okay. And why last summer did you decide  
8 to expand your consulting business?

9 A. Again, I will give you several answers  
10 today under the rubric of transitioning toward  
11 retirement. So I was trying to set up things that I  
12 could do after I'm not getting a paycheck.

13 Q. And are you currently transitioning toward  
14 retirement?

15 A. You are watching it happen.

16 Q. I wish, and I am jealous about that. No,  
17 I'm just kidding. Okay.

18 When do you anticipate that you will be  
19 fully retired or retired period?

20 MS. HIBBERT: Objection to form.

21 BY THE WITNESS:

22 A. My salaried positions, the ones I  
23 mentioned, the 12-hour job with Rock County is on  
24 notice October 21.

1 BY MS. DICKINSON:

2 Q. Okay.

3 A. And the UW position of -- of a 20-hour a  
4 week on salary is on notice for November 29.

5 Q. And are those both of 2019?

6 A. Yes, ma'am.

7 Q. Okay.

8 And as of October and November of 2019, do  
9 you intend to fill that time with consulting work or  
10 do you intend to retire?

11 A. I intend to much more retire than fill it  
12 with consulting work.

13 Q. Okay. Is it fair to say, I think you said  
14 that you were -- in the summer of 2018 you decided to  
15 expand your consulting practice.

16 Since the summer of 2018, have you been  
17 doing more consulting than you had prior to the summer  
18 of 2018?

19 MS. HIBBERT: Objection to form.

20 BY THE WITNESS:

21 A. Yes.

22 BY MS. DICKINSON:

23 Q. Okay. And in looking at doing more  
24 consulting, have you provided your name to these three



1 groups we've talked about, GLG, Thomson Reuters and  
2 Vident, as someone who may be willing to provide  
3 expert testimony?

4 MS. HIBBERT: Objection to form.

5 BY THE WITNESS:

6 A. Yeah, I would -- I don't know what  
7 objection to form really means.

8 MS. HIBBERT: Don't worry.

9 BY THE WITNESS:

10 A. But -- but -- but I would object to form  
11 because I didn't -- I didn't send my name to anybody.

12 BY MS. DICKINSON:

13 Q. I'm just trying to get a sense of  
14 currently do those three companies have your name as  
15 someone who is willing to provide expert testimony?

16 A. I would think that's correct.

17 Q. Okay. With GLG did you provide your name  
18 to them or did they find you?

19 A. All of these places found me.

20 Q. Okay. When was your first contact with  
21 GLG about doing expert witness work?

22 MS. HIBBERT: Objection to form.

23 BY THE WITNESS:

24 A. That's a specific question.

1                   My first contact with GLG regarding doing  
2   expert witness work was within the last couple of  
3   months.

4   BY MS. DICKINSON:

5           Q.     Okay. And who did you talk to at GLG  
6   about doing that?

7           A.     There is a contact person. Am I to name  
8   them?

9           Q.     You can if you know it.

10          A.     Eleanor Hamilton.

11          Q.     Okay. And do you know what your hourly  
12   rate or compensation is for any work you may get hired  
13   to do through GLG?

14          A.     Well, I listened to your English. My rate  
15   that I would be hired to do is a higher rate because I  
16   changed my rates this year, and I'm working off of old  
17   rates now.

18          Q.     Okay. What is the hourly rate that if you  
19   were hired through GLG you would be making?

20          A.     [REDACTED]

21          Q.     Okay. And with Thomson Reuters, what was  
22   the first time you had contact with Thomson Reuters  
23   about serving as a potential expert witness?

24          MS. HIBBERT: Objection to form.

1 BY THE WITNESS:

2 A. I honestly believe that I had some contact  
3 with them a while back, which is why I answered the  
4 way I did earlier that it was not since I've decided  
5 to expand my consult practice, which is the way you  
6 phrased it, but a very specific case came up within  
7 the last two months.

8 BY MS. DICKINSON:

9 Q. Okay. Did you end up being hired for that  
10 very specific case that you are talking about in the  
11 last few months?

12 A. By Thomson Reuters?

13 Q. Yes.

14 A. No.

15 Q. Okay. Did you decline to be hired for  
16 that very specific case?

17 A. Now I've got to think.

18 Yes.

19 Q. And what was the substance, generally, of  
20 that case?

21 A. I have testified to it previously, and it  
22 is the one where I said I don't have time to do all of  
23 that stuff.

24 Q. Fair. The one we talked about a few

1 minutes ago with the -- the 1-800 number company,  
2 correct?

3 A. And the drug testing.

4 Q. Okay. Do you know if prior to the time  
5 you signed a contract with Thomson Reuters whether  
6 they had your name as someone they might contact about  
7 expert witness testimony, do you know if they had your  
8 name?

9 MS. HIBBERT: Objection to form, calls for  
10 speculation.

11 BY THE WITNESS:

12 A. Exactly, I don't know.

13 BY MS. DICKINSON:

14 Q. You don't know.

15 With respect to Vident Partners, when was  
16 the first time you had contact with Vident Partners  
17 about doing potential expert witness testimony?

18 A. That was the one I mentioned the four to  
19 eight-year window, and I really don't think it was  
20 under that name at that point. It was the same guy.  
21 I don't know if the company has changed names.

22 Q. I need to ask you one more question about  
23 the Thomson Reuters relationship.

24 If you -- have you taken any case as an

1 expert witness that was brought to you through the  
2 Thomson Reuters relationship?

3 A. I have not.

4 Q. Okay. And if you do choose to take such a  
5 case, do you know what your hourly rate will be?

6 A. [REDACTED]

7 Q. Okay. Have you taken any case through a  
8 relationship or with Vident Partners?

9 A. I was involved with a case with, I think,  
10 essentially the same entity. I'm not sure if the name  
11 is the same.

12 Q. And remind me. I'm sorry. When was that?

13 A. That was the four to eight years ago one.

14 Q. Okay. And did you serve as a disclosed  
15 expert in that case or a consulting expert?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. I was never disclosed.

19 BY MS. DICKINSON:

20 Q. Okay. Okay. I am going to -- we marked,  
21 I think you have in front of you as Exhibit 2, could  
22 you pick that up. Just find it in the shuffle of  
23 papers in front of you.

24 Okay. What is Exhibit 2?

1           A.       My expert report in this case.

2           Q.       Okay.

3                   Does Exhibit 2, your expert report in this  
4 case, list all of the opinions you intend to offer in  
5 this case?

6           MS. HIBBERT:   Objection to form.

7   BY THE WITNESS:

8           A.       Yes.

9   BY MS. DICKINSON:

10          Q.       Okay.   Do you have any plans to render any  
11 additional opinions not listed here in Exhibit 2  
12 before the trial?

13          MS. HIBBERT:   Objection to form.

14   BY THE WITNESS:

15          A.       I do not.

16   BY MS. DICKINSON:

17          Q.       Okay.

18          THE WITNESS:   Sorry.

19   BY MS. DICKINSON:

20          Q.       Does your report and all of the appendices  
21 which are also contained in Exhibit 2 list all of the  
22 bases for the opinions in this report?

23          MS. HIBBERT:   Objection to form.

24   BY THE WITNESS:

1           A.       No.

2       BY MS. DICKINSON:

3           Q.       Okay. What is not listed in the expert  
4       report that formed the bases of your opinions?

5           A.       Years of practice, lots of reading of  
6       things other than listed here, just my general  
7       orientation as an experienced clinician in addiction  
8       medicine and working in addiction policy. So I did  
9       not specify where every idea came from. You said the  
10      basis.

11          Q.       Well, Doctor, you understand that in -- if  
12      you serve as an expert witness in litigation, you are  
13      under an obligation to disclose the entire bases for  
14      the opinions you are rendering in the case.

15                   Do you understand that?

16          MS. HIBBERT: Objection to form.

17      BY THE WITNESS:

18          A.       If I have a general thought about  
19      something that has grown over decades of experience  
20      and it's what I think and what I understand to be  
21      true, that can form my opinion without my having to  
22      reference any new specific article to put in a  
23      bibliography.

24      BY MS. DICKINSON:

1 Q. Totally understood, and I think even in  
2 the report you discussed your professional experience.

3 So taking your professional experience  
4 aside, I'm just trying to understand as we sit here  
5 today whether there is anything that you haven't  
6 mentioned in your report that you relied upon in  
7 forming the opinions that you -- that are contained in  
8 this report?

9 A. Yeah, I --

10 MS. HIBBERT: Objection to form.

11 BY MS. DICKINSON:

12 Q. Do you understand my question?

13 A. I --

14 MS. HIBBERT: Same objection.

15 BY THE WITNESS:

16 A. I think we are getting there. I think you  
17 are asking is there something specific like a journal  
18 article that I have not included, and I would say no.

19 BY MS. DICKINSON:

20 Q. Okay. And if you could turn to Page 2 of  
21 your report, please. It is Page 2 at the bottom.

22 A. Yes, ma'am.

23 Q. The Paragraph 4 at the last sentence says:

24 "This expert report and Appendix B should



1 be read collectively as they are intended to set forth  
2 my opinions regarding validity and material I relied  
3 on in performing those opinions."

4 Do you see that?

5 A. Yes.

6 Q. So this report and the Appendix B, is that  
7 an accurate statement that that was intended to set  
8 forth both your opinions and the materials you relied  
9 on?

10 MS. HIBBERT: Objection to form.

11 BY THE WITNESS:

12 A. Yes, ma'am.

13 BY MS. DICKINSON:

14 Q. And I believe we marked, just to be fair  
15 to you, I believe we've marked as Exhibit 4 some  
16 additional materials that you've reviewed and  
17 considered as of -- the date on this is June 3rd,  
18 2019, is that right?

19 A. Yes, ma'am.

20 Q. And do those materials change -- the  
21 review of those materials change the opinions in any  
22 way that you have in Exhibit 2?

23 MS. HIBBERT: Objection to form.

24 BY THE WITNESS:

1           A.       No.

2       BY MS. DICKINSON:

3           Q.       Are there any corrections to Exhibit 2  
4       that you're aware of that need to be made today?

5           A.       I have not discussed this with anyone, but  
6       I think there are some secretarial issues with the  
7       way -- with regard to the way some of the pages lined  
8       up and some of the footnotes were cited. So it could  
9       be -- if there is an opportunity before trial, it  
10      would be clearer if there could be some secretarial  
11      amendments, but not anything on substance.

12          Q.       Okay. Fair enough.

13                 There may be some typos or some formatting  
14      issues, but as you sit here today, do you believe  
15      there is any substantive correction that needs to be  
16      made to Exhibit 2 to accurately and fully state your  
17      opinions in this case?

18          A.       I do not think so.

19          Q.       As -- as will happen throughout the day,  
20      you are entitled breaks any time. I think we've been  
21      going over an hour, so let's take a quick break. I  
22      don't want to exhaust you, and so if you need a break  
23      give me or your counsel a high sign and we'll take a  
24      break. We'll try not to do that more than every hour

1 if that's okay, just to keep it moving, but why don't  
2 we take five and come back just to keep it moving. If  
3 you need longer than that, you certainly are entitled  
4 to it?

5 A. Thank you so much, ma'am.

6 MS. DICKINSON: Okay. Back in just -- I'll be  
7 back in five. Whenever you are all ready, that would  
8 be helpful if we could just keep moving.

9 THE VIDEOGRAPHER: We are off the record at  
10 11:20 a.m.

11 (WHEREUPON, a recess was had  
12 from 11:20 to 11:31 a.m.)

13 THE VIDEOGRAPHER: We are back on the record at  
14 11:31 a.m.

15 BY MS. DICKINSON:

16 Q. Dr. Miller, back on the record after a  
17 short break.

18 When was the first time that you were  
19 contacted about serving as an expert witness in this  
20 case?

21 A. Last summer.

22 Q. Okay. And by who?

23 A. It may have been by Ms. Hibbert, but it  
24 may have been by somebody else. I -- I don't remember

1 the very first call.

2 Q. Do you remember if it was someone at the  
3 Reed Smith firm?

4 A. It wasn't a third party.

5 Q. Was it an attorney?

6 A. Probably. That's speculating.

7 Q. Okay.

8 A. I don't remember.

9 Q. Had you ever worked with anyone at the  
10 Reed Smith firm before this case?

11 A. No.

12 Q. I assume that means you had not worked  
13 with Ms. Hibbert before this case?

14 A. Correct.

15 Q. Okay. What do you remember about the  
16 first conversation about this case when you were  
17 contacted?

18 A. It was a phone call and they said we have  
19 a litigation where we are wanting somebody to be an  
20 expert to explain what addiction is.

21 Q. Did that person let you know in that call  
22 that they represented AmerisourceBergen?

23 MS. HIBBERT: Objection to form.

24 BY THE WITNESS:

1           A.       I don't believe that came up in the first  
2   call.

3   BY MS. DICKINSON:

4           Q.       How long was the first call?

5           A.       I don't remember.

6           Q.       Less than an hour?

7           A.       Yes.

8           Q.       Less than 15 minutes?

9           MS. HIBBERT:  Objection to form.

10   BY THE WITNESS:

11           A.       Probably not.  Or may -- maybe.

12   BY MS. DICKINSON:

13           Q.       Okay.

14           A.       Maybe.

15           Q.       Prior to you being officially retained as  
16   an expert in this case, did you have additional phone  
17   calls or meetings to discuss the litigation?

18           MS. HIBBERT:  Objection to form.

19   BY THE WITNESS:

20           A.       My recollection is that before I was sent  
21   any materials to sign there was more than one phone  
22   call.

23   BY MS. DICKINSON:

24           Q.       Do you know when you signed a retainer to

1     serve as an expert in this case?

2           A.     I -- I don't know exactly when, but what  
3     you are getting at is some timeframes and I would say  
4     this summer I think was when there was the first phone  
5     call, but I traveled to their offices in July -- in  
6     August for a face-to-face get acquainted meeting and  
7     any signing would have been between the first phone  
8     call and actually having a face-to-face meeting with  
9     Ms. Hibbert and a -- another attorney from the firm.

10          Q.     Okay. At some point in the summer  
11     of 2018, you had a meeting at the Reed Smith law firm,  
12     is that fair?

13          A.     Yes. And as I sit here with you in  
14     deposition, I could have gotten the first phone call  
15     before the first day of summer. It could have been in  
16     late spring.

17          Q.     Okay. And I'm just trying to find out  
18     what -- how many contacts in between the time you were  
19     first contacted and the time that you signed a  
20     retainer letter with the Reed Smith law firm or with  
21     Amerisource, how many contacts with there?

22          MS. HIBBERT: Objection to form, lack of  
23     foundation as well referencing the retainer letter as  
24     opposed to a retention letter, just for clarification.

1 BY MS. DICKINSON:

2 Q. Actually, let's just start simple.

3 Do you have an agreement to work as an  
4 expert in this case?

5 A. Yes.

6 Q. Okay. What is that agreement called?

7 A. Well, I don't know. It's a legal term.

8 Q. Is the agreement a retainer letter or a  
9 retention letter, do you have any idea?

10 A. Legal terms. Not -- not my area.

11 Q. You don't -- okay.

12 A. The diff -- the difference between a  
13 retainer and a retention, I -- you could give me some  
14 medical terms, but those are legal terms I don't know  
15 the meaning of.

16 Q. Okay. For purposes of our discussion, so  
17 we know what we are talking about --

18 A. Yeah.

19 Q. -- when we refer to your agreement to work  
20 in this case, can we call it your retainer agreement?

21 MS. HIBBERT: Objection to form.

22 BY MS. DICKINSON:

23 Q. Is that fair?

24 A. I'll -- I'll go with that.

1 Q. Is there something that more accurately  
2 summarizes what the agreement is? I -- I -- I'm just  
3 trying to refer to it as something so we both  
4 understand what we are talking about when we talk  
5 about the agreement to work in this case.

6 Is there something better?

7 A. Very honestly, under oath, the word  
8 "agreement" comes to mind. Any adjective doesn't.

9 Q. Okay. Let's -- when we talk about this  
10 for the purpose of the next few minutes, let's just  
11 call it your agreement, okay?

12 A. Thank you.

13 Q. All right. And you think you signed your  
14 agreement in this case in the summer of -- August of  
15 20 18?

16 A. Before.

17 Q. Okay. Sometime over the summer --

18 MS. HIBBERT: Objection to form.

19 BY MS. DICKINSON:

20 Q. -- of 2018?

21 A. That's my best recollection.

22 Q. Is your agreement with AmerisourceBergen  
23 or with the Reed Smith law firm?

24 A. I believe it's with the firm.



1 Q. And before you signed your agreement,  
2 which lawyers at the Reed Smith law firm did you have  
3 conversations with?

4 MS. HIBBERT: Objection to form.

5 BY THE WITNESS:

6 A. I don't remember all of the names.

7 BY MS. DICKINSON:

8 Q. Can you remember -- tell me the ones you  
9 do remember.

10 A. The only names I remember are Eric  
11 Alexander, I think it is, and Ms. Hibbert, and that's  
12 it. I have not met with any other attorneys from that  
13 firm or conversed with that I can recall.

14 Q. Prior to signing your agreement, were you  
15 given any documents to review?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. I don't recall I got anything before I  
19 signed an agreement.

20 BY MS. DICKINSON:

21 Q. Okay. Prior to your agreement to serve as  
22 an expert for AmerisourceBergen, were you provided  
23 with any information about the case?

24 MS. HIBBERT: Objection to form.

1 BY THE WITNESS:

2 A. Yes.

3 BY MS. DICKINSON:

4 Q. What information?

5 A. That there was a case and that there were  
6 plaintiffs and that there were distributor defendants  
7 and that my expertise was going to be limited to  
8 discussing what is addiction.

9 Q. Is that the total of the information you  
10 were provided before you signed your agreement?

11 MS. HIBBERT: Objection to form.

12 BY THE WITNESS:

13 A. I recall nothing else.

14 BY MS. DICKINSON:

15 Q. And with that information, you executed an  
16 agreement to serve as an expert for AmerisourceBergen,  
17 is that right?

18 MS. HIBBERT: Objection to form.

19 BY THE WITNESS:

20 A. I did.

21 BY MS. DICKINSON:

22 Q. And is your understanding of what your  
23 opinion is limited to, does it fall within the subject  
24 area of the what is addiction subject area?

1 MS. HIBBERT: Objection to form.

2 BY THE WITNESS:

3 A. Yes, ma'am.

4 BY MS. DICKINSON:

5 Q. Do you know if your retainer agreement is  
6 just for this case, the National Prescription Opiate  
7 Litigation that is MDL 2804 or is it a general  
8 agreement to testify in other matters?

9 MS. HIBBERT: Objection to form.

10 BY THE WITNESS:

11 A. I can answer that, but if I may, I'd like  
12 to correct my previous answer.

13 BY MS. DICKINSON:

14 Q. Oh, sure. Of course.

15 A. When you said is it limited to what is  
16 addiction, there are some related questions: How does  
17 addiction happen, who gets it, what are the factors  
18 involved in the development of addiction. I believe a  
19 description of the condition and its pathogenesis is  
20 what I am -- what I was and am being asked to opine  
21 on.

22 Q. Okay. Prior to you signing the agreement,  
23 did you have any discussions about what you would not  
24 be willing to opine on?

1 MS. HIBBERT: Objection to form.

2 BY THE WITNESS:

3 A. No.

4 BY MS. DICKINSON:

5 Q. Is your agreement in this case, and this  
6 is what I was asking you a few minutes ago --

7 A. Oh, yes.

8 Q. -- I'm going to get back to it. But let  
9 me ask the question just so the record is clear.

10 Is your agreement in this case to provide  
11 testimony just in -- limited to MDL 2804, which is the  
12 National Prescription Opiate Litigation or is it a  
13 general retainer agreement with AmerisourceBergen to  
14 provide testimony in an undefined set of cases?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. I will answer the question to the best of  
18 my ability.

19 BY MS. DICKINSON:

20 Q. Okay.

21 A. I believe that it's a retainer with the  
22 firm. They told me that their primary client is  
23 AmerisourceBergen. They later told me that there were  
24 other distributor defendants who might want to use my

1 expert opinion on their behalf. It has also been  
2 mentioned that there could be other litigations  
3 besides the Ohio one. And my understanding, which in  
4 all honesty could be a misunderstanding, but based on  
5 conversations, my understanding is that my expertise  
6 is being provided to Reed Smith to assist them in  
7 their representation of whoever might request their  
8 services for whatever litigation might happen. So I  
9 think their primary relationship is with  
10 AmerisourceBergen, as I understand it, and to the  
11 extent that there could be other litigation regarding  
12 AmerisourceBergen and the general topic of opioids in  
13 other jurisdictions, I might be involved in those.

14 Q. Okay.

15 A. That's my -- that's the best I can say.

16 Q. That was actually exactly my question.  
17 That you understand -- do you understand that there  
18 are thousands of cases filed into this multidistrict  
19 litigation and AmerisourceBergen is a defendant in  
20 those cases?

21 MS. HIBBERT: Objection to form.

22 And I'll instruct the witness not to  
23 disclose any conversations or communications that you  
24 had with counsel about any other cases or this case.

1 BY THE WITNESS:

2 A. That's granted. And -- and, in fact, I  
3 was thinking in a whole different direction.

4 From the general media, news reports, and,  
5 of course, I work in this area, I -- I read stuff, I'm  
6 aware that there is a lot of stuff going on. And --  
7 and to the extent to which various manufacturers,  
8 distributors and retail pharmacies might be involved  
9 in these, I'm aware that there is a lot of active and  
10 potential litigation in general, and that comes from  
11 my -- you asked my knowledge, that comes from my  
12 knowledge, not from discussions with Reed Smith. I'm  
13 just...

14 Q. Were you disclosed as an expert in the  
15 State of Oklahoma case, for example?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. No.

19 BY MS. DICKINSON:

20 Q. Have -- has anyone -- are you serving as  
21 an expert in the City of Baltimore case?

22 MS. HIBBERT: Objection to form.

23 Objection to form and instruction not to  
24 answer to the extent that no expert witnesses have

1    been dis -- disclosed in the City of Baltimore case.  
2    So whether or not Dr. Miller or any other expert is  
3    serving as an expert in that case is beyond the line  
4    of --

5           MS. DICKINSON:   Well --

6           MS. HIBBERT:   -- what's appropriate for  
7    Dr. Miller to respond to in this deposition.

8           MS. DICKINSON:   Act -- actually, he lists the  
9    designation of experts in his CV --

10          MS. HIBBERT:   He lists the --

11          MS. DICKINSON:   -- or in his materials  
12    considered list, so I -- I think it's been disclosed.

13          MS. HIBBERT:   He lists the designation of  
14    Plaintiffs' experts.  There have been no defense  
15    experts disclosed in that case.

16                    If you want to -- if you want to phrase  
17    the question of, Dr. Miller, have you been disclosed  
18    as an expert witness in that case, that's a fair  
19    question, but whether or not he is offering any  
20    opinions in that case at this point prior to  
21    disclosure of defense expert witnesses for that or any  
22    other case is inappropriate and I'll instruct him not  
23    to answer that question.

24    BY MS. DICKINSON:

1 Q. Have you been disclosed as an expert in  
2 any other opioid-related litigation?

3 MS. HIBBERT: Objection to form.

4 BY THE WITNESS:

5 A. Not that I'm aware of.

6 BY MS. DICKINSON:

7 Q. Okay. Outside of your agreement to work  
8 as an expert in this case, have you discussed working  
9 as an expert but have not yet been retained with any  
10 other law firm regarding opioid litigation?

11 MS. HIBBERT: Objection to form.

12 BY THE WITNESS:

13 A. No.

14 BY MS. DICKINSON:

15 Q. Dr. Miller, can I ask you what I think is  
16 an important question: Why did you agree to defend  
17 AmerisourceBergen in this case?

18 MS. HIBBERT: Objection to form.

19 BY THE WITNESS:

20 A. I agreed to provide an expert opinion to  
21 the attorneys at Reed Smith and who their client was  
22 doesn't really change that opinion. It's just an  
23 expert opinion. Who the client was wasn't a central  
24 consideration for me.



1 BY MS. DICKINSON:

2 Q. Do you understand that your expert opinion  
3 is being offered on behalf of Defendant  
4 AmerisourceBergen and the other distributor defendants  
5 that we talked about?

6 A. I do.

7 MS. HIBBERT: Objection to form, asked and  
8 answered.

9 BY MS. DICKINSON:

10 Q. Did you understand that before you  
11 rendered the opinion?

12 MS. HIBBERT: Objection to form.

13 BY THE WITNESS:

14 A. Yes.

15 BY MS. DICKINSON:

16 Q. Okay. And I guess I'm asking you if you  
17 had that understanding, why did you agree to render an  
18 opinion on behalf of AmerisourceBergen and some other  
19 distributor defendants in the opioid litigation --

20 MS. HIBBERT: Objection to form.

21 BY MS. DICKINSON:

22 Q. -- that we are discussing today?

23 MS. HIBBERT: Sorry. Same objection.

24 BY THE WITNESS:

1           A.       Because I believe in the American legal  
2   system.

3   BY MS. DICKINSON:

4           Q.       What does that mean?

5           A.       There are different sides.  Everybody has  
6   a right to have their side heard.

7           Q.       Did you look at any internal documents  
8   from AmerisourceBergen in rendering your opinion?

9           A.       No.

10          Q.       Did you look at any of the conduct of any  
11   AmerisourceBergen or any of the distributor defendants  
12   in rendering your opinion?

13          MS. HIBBERT:  Objection to form.

14   BY THE WITNESS:

15          A.       I -- I did not.

16   BY MS. DICKINSON:

17          Q.       Did you ever ask to?

18          A.       No.  I read the Complaint.

19          Q.       That wasn't my question.  I was just --

20          A.       I know, but that -- that's -- as far as  
21   the conduct of parties in this litigation, I know  
22   nothing about the con -- I -- I have no specific  
23   knowledge of the conduct of parties other than the  
24   allegations of the Complaint.

1 Q. You don't know whether the allegations of  
2 the Complaint are true or not, right, fair?

3 A. I think that's why there is a trial.

4 Q. Would it -- was it important to you to  
5 know if whether the allegations in the Complaint are  
6 true or not in deciding whether to testify on behalf  
7 of AmerisourceBergen?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. I -- in all due respect, I believe you are  
11 not asking me my opinion. I believe you are asking me  
12 my personal motives.

13 BY MS. DICKINSON:

14 Q. Which is the question.

15 A. And is that a fair question?

16 Q. Yes.

17 A. Okay.

18 MS. HIBBERT: Objection. Same objection. I'm  
19 not really sure what question is pending right now,  
20 so.

21 BY MS. DICKINSON:

22 Q. I'll read it to you.

23 Was it important for you to know in  
24 deciding whether to testify on behalf of

1 AmerisourceBergen whether the allegations in the  
2 Complaint were true or not?

3 MS. HIBBERT: Objection to form.

4 BY THE WITNESS:

5 A. Again, given my previous statement about  
6 the American legal system, I wasn't asked to opine on  
7 the allegations or the behaviors or anything. I was  
8 asked to opine on what is addiction, and that is  
9 independent of whether even companies exist or are  
10 incorporated. And so I look at this as a matter of  
11 being somebody who works in the field, has attained  
12 certain status in the field, has certain expertise to  
13 share and possibly said light -- shed light on a legal  
14 process, and so I'm kind of neutral in this.

15 BY MS. DICKINSON:

16 Q. Is the answer to my question then it was  
17 not important to your opinion whether the allegations  
18 in the Complaint are true or not, right?

19 MS. HIBBERT: Objection to form, asked and  
20 answered.

21 BY THE WITNESS:

22 A. It was not an important consideration of  
23 mine in my decision. That's where you began.

24 BY MS. DICKINSON:

1 Q. Okay. What is your compensation  
2 arrangement in this case?

3 A. Hourly rate for different services.

4 Q. And what is that hourly rate?

5 A. The hourly rate in this case for general  
6 review of records and general consultation with  
7 counsel, review of materials is 475 an hour, the rate  
8 for deposition and preparation for deposition is 650  
9 an hour, and the rate for trial is a half day and a  
10 full day rate, and we haven't gotten there and you  
11 have the exhibit somewhere, I believe, and I'm not  
12 remembering. It is in the letter of agreement. There  
13 is a \$5,000 number, as I recall, and I don't remember  
14 if that's a half day or a full day.

15 Q. Okay. Is -- I don't see it in your  
16 report.

17 Is there a flat fee arrangement if you're  
18 to give trial testimony of some kind for your work?

19 A. It's a -- it's a -- it's a daily rate.

20 Q. Okay. And do you have any idea what that  
21 daily rate is? I don't see it in here.

22 A. I would tend to think -- I would tend to  
23 think it was a \$5,000 rate is what was -- again, the  
24 rates I'm working under, not my current rates for

1 future work.

2 Q. Have your current rates for future work  
3 changed from the rates we just described in this case?

4 A. Yes.

5 Q. Okay. And how have they changed?

6 A. Gone up.

7 Q. To what?

8 A. It was a significant change based on the  
9 fact that I have been working off of rates that I set  
10 in 2004. I never changed my rates. And in having a  
11 conversation with a colleague who does a lot of this,  
12 and we talked about other colleagues and her awareness  
13 of what rates were, I realized that I had an  
14 opportunity to revise my rates. And so I changed my  
15 basic hourly rate from 475 to 675 and I changed the  
16 trial rate in an equivalent percentage.

17 Q. Okay. And who was the colleague you  
18 discussed that with?

19 A. Do I have to disclose that?

20 Q. Yes.

21 A. Andrea Barthwell.

22 Q. And who is Andrea Barthwell?

23 A. She is a former president of the American  
24 Society of Addiction Medicine, like myself.

1 Q. Is she an addiction medicine specialist?

2 A. She is.

3 Q. Okay. And how do you know Dr. Barthwell?

4 A. Well, we originally met when we were on  
5 the faculty together of the first ASAM review  
6 course --

7 Q. Okay. Have -- have you done --

8 A. -- back in the '80s.

9 Q. Sorry. I spoke over you.

10 A. That's quite all right.

11 Q. Have you known each other ever since?

12 A. Oh, yes.

13 Q. Okay. Did anyone else in this case assist  
14 with your work in preparing your opinions and your  
15 report?

16 A. No.

17 MS. HIBBERT: Objection to form.

18 BY MS. DICKINSON:

19 Q. No staff time or anything like that?

20 A. You are looking at staff.

21 Q. Okay. How many hours have you spent  
22 working on the case to date?

23 A. Less than a hundred.

24 Q. Okay. And when did you start billing

1 hours in this case?

2 A. My recollection is it was July.

3 Q. July of 2018?

4 A. Yes, ma'am.

5 Q. Okay. Can you give me a sense of how the  
6 less than a hundred hours you -- you've spent  
7 developing the opinions in the case were spent over  
8 the course of that year, and what -- what I mean by  
9 that --

10 A. Yes, ma'am.

11 Q. -- is I just want a sense of if you have  
12 spent 15 minutes in the last summer and a hundred  
13 hours in the last two months, can you just give me a  
14 general sense of how those hours were spent?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. I know that there were three or four  
18 months where there was no activity in the middle. I  
19 did a lot of reading at first because I read the  
20 Complaint.

21 BY MS. DICKINSON:

22 Q. Okay.

23 A. Okay. Then, because I knew I would write  
24 an expert report for the first time in my career, I



1 was sent expert reports from totally unrelated cases  
2 just to read to get a sense of what's the tone, what's  
3 the depth, what's the duration, just a general frame  
4 of reference of how to construct an expert report.

5 And before I began my position at the  
6 university in October 1, I had time on my hands and I  
7 began initial drafts of this report even back in  
8 September. So I think September billing was a decent  
9 number. And then things went pretty quiet. And then,  
10 I don't know, three months ago things picked up again.  
11 And May was probably my biggest month because I was  
12 reading depositions of other experts and reading  
13 them -- rereading journal articles, and so the last  
14 two months have been pretty busy.

15 Q. Okay. Let's break this up a little bit.

16 First, what expert reports from the sample  
17 expert reports were you given?

18 MS. HIBBERT: Objection to form.

19 BY THE WITNESS:

20 A. Could I reference my report?

21 BY MS. DICKINSON:

22 Q. Yes. I don't see them anywhere in there.  
23 That's what I'm asking.

24 A. Oh, they weren't in there?

1 Q. I -- I don't see them.

2 A. Oh.

3 Q. If you can find them, great, but what  
4 expert reports were you given is my question?

5 MS. HIBBERT: I'll put an objection on the  
6 record and instruct the witness not to answer. These  
7 aren't materials that are relied upon for Dr. Miller's  
8 opinions. They don't fall within any of the  
9 exceptions to the communications disclosure under  
10 Rule 26 and I'll thus instruct Dr. Miller not to  
11 answer any questions pertaining to those  
12 communications between counsel and himself.

13 MS. DICKINSON: So, Counsel, for the record, you  
14 are instructing the witness not to answer materials he  
15 was given by counsel and considered in -- for -- in  
16 drafting his opinion in this case, is that correct?

17 MS. HIBBERT: You can ask him that question  
18 whether he considered those reports in drafting his  
19 opinions in this case.

20 MS. DICKINSON: He just testified he did, so...

21 MS. HIBBERT: He didn't. That's a  
22 mischaracterization.

23 MS. DICKINSON: Are you instructing him not to  
24 answer which reports he was given?

1 MS. HIBBERT: Yes.

2 BY MS. DICKINSON:

3 Q. Okay. Dr. Miller, you testified a minute  
4 ago you were given some expert reports from other  
5 cases, is that right?

6 A. Yes, ma'am.

7 Q. Did you read and review those?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. I did.

11 BY MS. DICKINSON:

12 Q. Okay. Did you read and review those prior  
13 to drafting your opinions in this case?

14 MS. HIBBERT: Objection to form.

15 BY THE WITNESS:

16 A. I did.

17 BY MS. DICKINSON:

18 Q. Okay. And what was the subject matter of  
19 those expert reports?

20 MS. HIBBERT: Objection to form.

21 BY THE WITNESS:

22 A. I don't recall.

23 BY MS. DICKINSON:

24 Q. Okay. Would your billing detail show what

1 the subject matter of those expert reports were?

2 MS. HIBBERT: Objection to form.

3 BY THE WITNESS:

4 A. Probably, yes.

5 BY MS. DICKINSON:

6 Q. Okay. Did you -- or who are the authors  
7 of those expert reports?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. I don't recall.

11 BY MS. DICKINSON:

12 Q. Okay. Would your billing detail show  
13 that?

14 MS. HIBBERT: Objection to form.

15 BY THE WITNESS:

16 A. Probably.

17 BY MS. DICKINSON:

18 Q. All right. And, Dr. Miller, can -- can  
19 you give me your best -- do you recall what date you  
20 started working on this report?

21 A. That's a matter of interpretation. I  
22 began working on the case and all of the work has  
23 contributed to the report in some way, but actually  
24 began drafting the report is a different question.

1 Q. Okay. Fair enough.

2 Do you recall what date you started  
3 working on the case?

4 A. No, but it was right when we signed the  
5 agreement and I would say that's when I began work.

6 Q. Okay. Would your invoices show what date  
7 you started billing on the case?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. They would.

11 MS. DICKINSON: And for the record, we don't  
12 have your invoices here today, do we?

13 MS. HIBBERT: Objection to form, calls for  
14 speculation.

15 BY THE WITNESS:

16 A. I don't have them.

17 BY MS. DICKINSON:

18 Q. Okay. Do you have an idea what month you  
19 started working on the case?

20 A. Again, I believe it was in July.

21 Q. July of 2018?

22 A. Yes, ma'am.

23 Q. Okay. How many hours did you spend in  
24 July of 2018 when you first started working on the

1 case?

2 A. Less than 15.

3 Q. And what did you do in those less than  
4 15 hours in July of 2018?

5 A. Madam, I'm going to be very careful in  
6 answering these questions because I'm having to guess  
7 at things that I really don't have specific memories  
8 of. You are asking me to break things down by month  
9 and specific things. I didn't review any of that and  
10 I didn't try to refresh my memory and didn't reference  
11 anything in preparation for today's deposition. I can  
12 tell you some things I've already testified to. They  
13 called me, we spoke, they said, What are your rates.  
14 I pulled up my rate sheet which was my 2004 rate  
15 sheet. We spoke. They said, Are you interested? I  
16 said, Sure. They sent me a letter of agreement which  
17 says, We are agreeing to do this and there is a  
18 paragraph on rates and I don't even remember if it  
19 specified what all I -- what all I was to do. I don't  
20 know if it, like, said, You will be asked to report,  
21 you will be asked to appear at trial. I don't  
22 remember if it said all of that stuff. It was  
23 basically an agreement, okay? So I signed it. And  
24 then they began shipping me stuff, like the Complaint,

1 it's a long Complaint, okay. Then they asked me to  
2 start doing some research, and I began using my  
3 librarian at Meriter Hospital to find articles and I  
4 began reading that stuff. And then, again, as I've  
5 said in different ways, I didn't know what to do with  
6 it.

7 The other reports were sent -- not -- like  
8 I said, I don't remember what they were on or who the  
9 authors were. It was only formatting, it was the  
10 concept -- the -- the -- it was the process of how one  
11 does a report. It didn't form my opinion. It just  
12 formed how I would package all of my knowledge and  
13 expertise that's in my CV and the articles I read into  
14 a report. And then I began drafting in September.  
15 That's what I can testify to the best of my ability.

16 Q. Okay. Doctor, you realize I'm just trying  
17 to get a sense of what you did, what your methodology  
18 was and how many hours you spent doing certain things  
19 to get to the endpoint, okay?

20 A. Okay.

21 Q. That's the purpose of what -- these  
22 questions that I'm about to ask you.

23 If you had your invoices in front of you,  
24 could you tell me how many hours you spent reviewing

1 materials in July of 2018?

2 MS. HIBBERT: Objection to form.

3 BY THE WITNESS:

4 A. If I had them in front of me, it would  
5 specify what I did.

6 BY MS. DICKINSON:

7 Q. Okay. If you had your invoices in front  
8 of you, could you tell me what you did in August  
9 of 2018 before you started writing your report?

10 MS. HIBBERT: Objection to form.

11 BY THE WITNESS:

12 A. I would -- I would certainly think so.

13 BY MS. DICKINSON:

14 Q. Okay. If you had both of those two  
15 invoices, could you tell me how many hours you spent  
16 prior to the writing where you started writing the  
17 report?

18 MS. HIBBERT: Objection to form.

19 BY THE WITNESS:

20 A. I would think so, yes.

21 BY MS. DICKINSON:

22 Q. Okay. Do you have any idea sitting here  
23 today how many hours you spent both reviewing the  
24 materials that were shipped to you, doing research or



1 anything else before you started drafting in  
2 September?

3 MS. HIBBERT: Objection to form.

4 BY THE WITNESS:

5 A. I hope my answer is correct. 30.

6 BY MS. DICKINSON:

7 Q. Are you guessing?

8 A. Yeah.

9 Q. Okay. Do you have any idea how long you  
10 spent reviewing the Complaint?

11 A. Yes, I have an idea. I would say it was  
12 two or three hours.

13 Q. Okay. Would your invoices show exactly  
14 how long it actually was?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. I think that level of detail would appear.

18 BY MS. DICKINSON:

19 Q. Okay. Do you have any idea -- you said  
20 you were shipped a number of materials after you  
21 started work and before you started drafting.

22 Where do I find -- how long did you spend  
23 reviewing those materials?

24 MS. HIBBERT: Objection to form.

1 BY MS. DICKINSON:

2 Q. Before you started drafting?

3 MS. HIBBERT: Same objection.

4 BY THE WITNESS:

5 A. Ten hours maybe.

6 BY MS. DICKINSON:

7 Q. Is that a guess?

8 A. Absolutely. These are all going to be  
9 guesses.

10 Q. Okay. You said you were asked to do some  
11 research?

12 A. Or estimates.

13 Q. You said you were asked to do some  
14 research. Is -- prior to the drafting of your report,  
15 did you conduct research?

16 A. Yes, ma'am.

17 Q. Okay. What did you do to conduct  
18 research?

19 A. I read -- well, I had my own articles from  
20 my own literature files that I keep and then I would  
21 look in the bibliography and find other articles I  
22 thought would be a deeper dive, provide more relevant  
23 information. I did some searches to find some  
24 articles. I asked the librarian at Meriter Hospital,

1 Robert Koehler, K-o-e-h-l-e-r, to find things on  
2 different topics for me. He is wonderful. And so I  
3 had articles that I found on my own and that was part  
4 of what I used.

5 Q. Okay. How many hours did you spend doing  
6 that research up until the time you started drafting?

7 MS. HIBBERT: Objection to form.

8 BY THE WITNESS:

9 A. Again, I'm -- I'm thinking that seeking,  
10 finding, reading, and taking notes on articles and  
11 such was probably 30 hours.

12 BY MS. DICKINSON:

13 Q. Is that also a guess?

14 MS. HIBBERT: Objection to form.

15 BY THE WITNESS:

16 A. Correct, ma'am.

17 BY MS. DICKINSON:

18 Q. Okay. Are all of the materials that you  
19 pulled in researching before you started drafting, are  
20 they all listed in the Appendix of Materials  
21 Considered to Exhibit 2, your report?

22 MS. HIBBERT: Objection to form.

23 BY THE WITNESS:

24 A. Well, I read so much and -- and what's in

1 the report is things relative to my opinions that  
2 substantiate my opinions. I could have read something  
3 and decided, eh, that's not relevant and so it's not  
4 included.

5 BY MS. DICKINSON:

6 Q. I'm not asking what you thought was  
7 relevant to your opinions. I'm asking about materials  
8 you reviewed or considered, okay. And so in doing the  
9 research prior to the writing of the report, are there  
10 articles that you reviewed or considered that do not  
11 appear in Appendix B of the Materials Considered?

12 MS. HIBBERT: Objection to form.

13 BY THE WITNESS:

14 A. I'm under oath and I'm going to answer  
15 this as best I can.

16 Practicing addiction medicine is what I  
17 do. Delving into the topic of what is addiction is  
18 something I really spend time on. I'm always reading,  
19 whether there is a lawsuit or not and whether I'm  
20 involved in it or not, I'm always reading on the  
21 topic. I'm always finding new articles. I am always  
22 a student of the field in which I work. And in all  
23 due respect, I think I'm sitting in this room because  
24 I am an expert on this area of what is addiction.

1                   Are there articles I have read in my life  
2   that I have not cited here, sure. They are what I've  
3   done as part of my career, not as an expert witness,  
4   to understand the disease I treat and the patients  
5   that I take care of. And so that when I give talks,  
6   they are based on fact as much as possible and not on  
7   speculation on my part.

8                   Is there a whole library of literature  
9   from my 30-year career that has contributed to my  
10  thinking on this matter that I didn't go back and  
11  reread specifically for this case, if there was  
12  something I read for this case, you know about it and  
13  it's public record in this document. There is nothing  
14  I've hidden, nothing else, but I can't say that there  
15  is -- there aren't other articles I've ever read that  
16  helped shape my understanding of what addiction is and  
17  how people get it.

18                  So I believe I've done a very good faith  
19  and accurate representation to meet the legal  
20  requirements of citing so that both sides have access  
21  to it, but your questions have been sort of broad and  
22  I -- I -- and I can't -- I can't -- I -- I can't rule  
23  out that there is some article somewhere that somebody  
24  wrote or some lecture I went to that helped shape my

1     opinions that I -- I -- that I'm able to cite. I -- I  
2     can't cite every single thing I've read in the last  
3     30 years and I'm sorry.

4             MS. DICKINSON: Objection; nonresponsive.

5     BY MS. DICKINSON:

6             Q.     Doctor, my question was actually very,  
7     very different. And I hope you understand I'm not  
8     actually trying to ask you broad questions or trying  
9     to be tricky. All I'm trying to understand is what  
10    you did.

11            So my question was, you said you did  
12    research. And I asked you, is -- are all of the  
13    articles you pulled in the course of that research,  
14    are they listed in Exhibit -- or Appendix B to  
15    Exhibit 2? Simple question.

16            MS. HIBBERT: Objection to form, asked and  
17    answered.

18    BY THE WITNESS:

19            A.     I'm going to answer no so that you can ask  
20    a follow-up.

21    BY MS. DICKINSON:

22            Q.     Okay. Where would I find the -- a list of  
23    the articles that don't appear in Exhibit B?

24            MS. HIBBERT: Objection to form.

1 BY THE WITNESS:

2 A. Okay.

3 BY MS. DICKINSON:

4 Q. Or Appendix B, I'm sorry, Exhibit 2.

5 MS. HIBBERT: Same ob -- same objection.

6 BY THE WITNESS:

7 A. Yeah, within discussions between the law  
8 firm that has retained me and me, the expert, there  
9 have been other articles that I've read that I thought  
10 didn't pertain and so aren't listed.

11 BY MS. DICKINSON:

12 Q. Is there anywhere that I can find the  
13 articles that you read that you did not list here?

14 MS. HIBBERT: Objection to form, asked and  
15 answered.

16 BY THE WITNESS:

17 A. Yes.

18 BY MS. DICKINSON:

19 Q. Where?

20 A. At my house.

21 Q. Do you have a file on this case that those  
22 articles would exist in?

23 MS. HIBBERT: Objection to form.

24 BY THE WITNESS:

1           A.       I do.

2       BY MS. DICKINSON:

3           Q.       Is it a hard copy file or an electronic  
4       file?

5           A.       Hard copy.

6           MS. HIBBERT:  Objection to form.

7                    Give me a pause, please, Dr. Miller.

8           THE WITNESS:  Yes, ma'am.

9       BY MS. DICKINSON:

10          Q.       So there are articles in that hard copy  
11       that we were just talking about that you may have  
12       read, but didn't feel that were relevant but they  
13       are -- exist in that hard copy?

14          MS. HIBBERT:  Objection.

15       BY MS. DICKINSON:

16          Q.       Is that a fair statement?

17          MS. HIBBERT:  Same objection.

18       BY THE WITNESS:

19          A.       That is a fair statement.

20       BY MS. DICKINSON:

21          Q.       Okay.

22                    And were you asked by counsel when  
23       preparing Appendix B to Exhibit 2 to list all of the  
24       materials that you had read?



1 MS. HIBBERT: I'll object to that question and  
2 instruct the witness not to answer any communications  
3 with counsel outside of the boundaries of Rule 26 for  
4 which that question does not fall.

5 BY MS. DICKINSON:

6 Q. Do you know why there were materials that  
7 you read that aren't listed in Appendix B?

8 MS. HIBBERT: Objection to form and you are not  
9 to disclose any communications that you had with  
10 counsel, Dr. Miller. You can answer to the extent  
11 that you can with that qualification.

12 BY THE WITNESS:

13 A. If they are not listed, I thought they  
14 were from the literature but not relevant to my  
15 opinions as formulated in my report.

16 BY MS. DICKINSON:

17 Q. Okay. Let's talk about you started  
18 drafting your report, I think you said, in September  
19 of 2018, is that right?

20 A. I believe that's correct.

21 Q. You said in September that you had done a  
22 decent amount of work.

23 What does that mean, roughly, how many  
24 hours?

1 MS. HIBBERT: Objection -- objection to form.

2 BY THE WITNESS:

3 A. I'll answer it a bit differently. I'd say  
4 I -- I -- I did 40 percent of the rough draft of the  
5 report.

6 BY MS. DICKINSON:

7 Q. Does that mean you said you spent roughly  
8 100 hours. Does that mean 40 so of them were spent in  
9 last September?

10 MS. HIBBERT: Objection to form.

11 BY THE WITNESS:

12 A. No, I would not make that calculation.

13 BY MS. DICKINSON:

14 Q. Okay. How much of the 100 or so hours  
15 that you have worked on this case preparing your  
16 report or working on the case were spent on drafting  
17 back in last September?

18 A. Between four and six, as I recall.

19 Q. Four and six hours?

20 A. Yes, ma'am.

21 Q. Okay. And you said that there were a  
22 couple months after September where there wasn't much  
23 work, is that accurate?

24 A. Yes, ma'am.

1 Q. Okay. Did you do any work in October or  
2 November of 2018 on the case?

3 A. I believe I did work in October. I don't  
4 recall about November. And I believe that to the best  
5 of my memory January through March were dead months.

6 Q. When you say dead months, did you do any  
7 work?

8 A. No work, no billing.

9 Q. Okay. And you said you believed you did  
10 work in October and November.

11 How many hours did you spend in those  
12 months?

13 A. I -- I -- I would just be guessing.

14 Q. If you had your invoices, would you know?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. I believe I would.

18 BY MS. DICKINSON:

19 Q. You said January to March there was no  
20 work, so that takes us up to April of 2019, is that  
21 right?

22 A. Right. So March I really don't remember,  
23 but April picked up and May was very heavy.

24 Q. Okay. Do you know how many hours you

1 billed in April and May of 2019?

2 A. I know that in May it was, like, 33.

3 Q. Okay. Do you know how many in April?

4 A. No.

5 Q. Do you know what -- if you had your  
6 invoices, would you know how many hours you spent in  
7 April?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. I would.

11 BY MS. DICKINSON:

12 Q. Do you know how many of the 33 hours you  
13 billed in May, do you know how those hours were spent?

14 A. We just finished May, right?

15 Q. You told me that you thought you had spent  
16 33 hours in May. I'm just asking how were those  
17 33 hours spent, what kinds of activities were you  
18 performing?

19 A. Reading the expert opinion of Dr. Lembke,  
20 reading the deposition of Dr. Lembke. I actually read  
21 a bunch of expert opinions which are listed in the  
22 document here. You've got those names of expert  
23 opinions in this case. And I did more writing, maybe  
24 some revision, I finished up the final draft, and had

1 phone calls and had -- in May I had a meeting with  
2 Ms. Hibbert.

3 Q. Without your invoices, do you know how  
4 much time you spent on each of those activities  
5 sitting here today?

6 MS. HIBBERT: Objection to form.

7 BY THE WITNESS:

8 A. Within the -- I could give some percentage  
9 guesstimates on the breakdown of the 33 hours if you  
10 would like.

11 BY MS. DICKINSON:

12 Q. It is the best we have, so sure.

13 A. Thank you, ma'am.

14 MS. HIBBERT: Objection to form, calls for  
15 speculation.

16 BY THE WITNESS:

17 A. In May a meeting with Ms. Hibbert at  
18 around six hours; other consultation with her I would  
19 guess about three in the course of the month; reading  
20 of the Lembke deposition, probably three; reading  
21 extra articles, eight.

22 I'm actually getting a little tired. So  
23 I'm -- I'm going to -- I've -- I've answered that  
24 about as well as I could.

1 BY MS. DICKINSON:

2 Q. Okay. Do you need to take a break?

3 A. I think it's mental fatigue related to  
4 this line of questioning --

5 Q. Okay.

6 A. -- in all -- in all honesty.

7 Q. I -- I think we are almost done with the  
8 line of questioning --

9 A. That's cool.

10 Q. -- so if you are okay we'll keep going,  
11 but if you need a break --

12 A. No.

13 Q. -- we certainly can take one.

14 A. I'm -- I'm -- I'm doing fine except for  
15 this line of questioning. I think we'll be fine.

16 Q. Okay. Of the 33 hours you just -- I just  
17 want to make sure I heard you correctly and then I  
18 think we'll move on, you think you spent nine of those  
19 meeting with the attorneys, is that right?

20 A. Right.

21 Q. Okay.

22 A. Six face-to-face, three on the phone,  
23 right.

24 Q. Three hours reviewing the testimony of

1 Dr. Lembke, is that right?

2 MS. HIBBERT: Objection to form.

3 BY THE WITNESS:

4 A. That's what I said, I think.

5 BY MS. DICKINSON:

6 Q. Okay. I just wanted to make sure I wrote  
7 it down accurately.

8 And about eight hours reviewing articles,  
9 is that right?

10 MS. HIBBERT: Objection to form.

11 BY THE WITNESS:

12 A. Okay.

13 BY MS. DICKINSON:

14 Q. Okay. The Appendix B to Exhibit 2, can  
15 you turn to that? When you get there, let me know.

16 A. Um-hum.

17 Q. Tell me, what is Appendix B to Exhibit 2?

18 MS. HIBBERT: Object to form.

19 BY THE WITNESS:

20 A. Appendix B is Materials Reviewed and  
21 Considered. And in the course of doing this work I've  
22 come to understand how lawyers do this. I consider  
23 the literature to be the -- the materials, but  
24 obviously there's all sorts of materials, these

1     Complaints.

2                     So what we see is one, two, three, four,  
3     five, six Complaints, we see a little over three pages  
4     of citations of articles and documents from  
5     professional literature, a list of one, two, three,  
6     four, five, six transcripts of depositions, and a list  
7     of -- I thought it was ten expert reports, one, two,  
8     three, four, five, six, seven, eight, nine -- boy, my  
9     memory was right -- ten.

10            Q.     We are not going to cover again the -- the  
11     things we've already gone over with respect to  
12     materials considered. You have this broken down into  
13     several sections, so I'll just take them in sections.

14                     One is court documents where you list some  
15     various Complaints, right?

16            A.     Yes.

17            Q.     Okay. Who selected which court documents  
18     you would look at in the case?

19            A.     I have no idea.

20            MS. HIBBERT: Objection to form.

21     BY MS. DICKINSON:

22            Q.     It was not you?

23            MS. HIBBERT: Objection to form.

24     BY THE WITNESS:



1           A.       It was not me.

2       BY MS. DICKINSON:

3           Q.       Okay. Once you had -- or have you read  
4       each and every page of the court documents that are  
5       listed in Appendix B?

6           A.       No.

7           Q.       Okay. Which part -- portions of the court  
8       documents in Exhibit -- or Appendix B have you read?

9           MS. HIBBERT: Objection to form.

10       BY THE WITNESS:

11           A.       If I may, in the four Ohios there was a  
12       city and a county and there was a lot of repetition.  
13       And one of them I read from start to finish and I  
14       can't remember which of the four. And then when I got  
15       into the others, I zoomed in because I wasn't going  
16       after all of the various allegations and what have  
17       you. And then when I was sent the Baltimore, my  
18       recollection is that I looked at that less than an  
19       hour total, again, to just look at some things that  
20       would be relevant to what I thought I was asked to  
21       form expert opinions on.

22                    So I did not read all of these. I -- I  
23       read enough of Ohio that I got a sense of the broad  
24       case and -- and then I -- I read segments of the

1 others, and that would be on the court documents.

2 Now, was your question on the court

3 documents?

4 BY MS. DICKINSON:

5 Q. Just on the court documents. Let's take

6 it one by one. Okay?

7 A. Yes, ma'am.

8 Q. Why was it relevant to you to consider the

9 City of Baltimore designation of experts and the

10 Second Amended Complaint in the City of Baltimore

11 case?

12 MS. HIBBERT: Objection to form.

13 BY THE WITNESS:

14 A. I would not say it was considered relevant

15 by me.

16 BY MS. DICKINSON:

17 Q. I guess I -- I'm not sure. We talked

18 earlier about the materials that you reviewed that you

19 thought weren't relevant. You didn't list in the --

20 the list of materials, but here you list them.

21 So is there a reason these are listed and

22 other irrelevant materials were not?

23 MS. HIBBERT: Objection to form.

24 BY THE WITNESS:

1           A.       I listed all of the things that I would  
2   consider non-literature, all of the legal things, I'll  
3   use that term, legal things sent to me by Reed Smith.  
4   And I didn't get anything in the -- in the form of  
5   a -- of a legal thing from them that I didn't put in  
6   the report.

7   BY MS. DICKINSON:

8           Q.       Okay. Let's move onto the Professional  
9   Literature portion.

10                   The professional literature listed here  
11   and the additional articles listed in Exhibit 4, is  
12   that a complete list of the specific professional  
13   literature that you reviewed with respect to this  
14   case?

15           A.       Yes, ma'am.

16           MS. HIBBERT: Objection to form.

17           THE WITNESS: Sorry.

18           MS. HIBBERT: Asked and answered.

19   BY MS. DICKINSON:

20           Q.       Are all of the professional literature  
21   sources on this list sources that you found in your  
22   own research?

23           MS. HIBBERT: Objection to form.

24   BY THE WITNESS:

1 A. No.

2 BY MS. DICKINSON:

3 Q. Okay. What other source did you receive  
4 professional literature from?

5 A. Okay.

6 MS. HIBBERT: Objection --

7 Hold on.

8 Objection to form.

9 She is not asking you about any substance  
10 of the communications that you had with counsel, okay.  
11 Understand? With that qualification you can answer.

12 BY MS. DICKINSON:

13 Q. I'll ask a better question.

14 Did you receive some of the professional  
15 literature cited in here from counsel?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. Yes.

19 BY MS. DICKINSON:

20 Q. Okay. Which articles on the professional  
21 literature list, both in Exhibit 2, Appendix B, and  
22 Exhibit 4, did you receive from counsel?

23 MS. HIBBERT: Objection; form.

24 BY THE WITNESS:

1           A.     Okay. Let's take a deep breath. If I  
2     were to go through this list, which I have not done,  
3     and say where did they come from, there are three  
4     sources. One is articles -- well, four sources. One  
5     is articles I already had.

6     BY MS. DICKINSON:

7           Q.     Okay.

8           A.     Another is articles that I researched on  
9     my own using my librarian in Madison.

10                   Then there were two different types of  
11     articles sent to me by counsel. One was things I  
12     asked for --

13           Q.     Uh-huh.

14           A.     -- because I became impressed with the  
15     quality of their library service and they could ship  
16     me something in a printed form and I didn't have to  
17     print it myself off an electronic, and I asked for a  
18     number of things from them. Then there was a  
19     literature file that they had compiled for their own  
20     purposes so they could understand the issues in the  
21     case and they shared some articles with me that they  
22     had researched on their own that I had not researched  
23     myself. So there is a mixture.

24           Q.     Okay. I'm interested in the last bucket,

1     which is just the things -- you said there are four  
2     buckets, and I just want to make sure I understand you  
3     correctly --

4             A.     Yes.

5             Q.     -- so I'm not misunderstanding.

6                     There are things that you have on your  
7     own?

8             A.     Right.

9             Q.     There is library research that you had  
10    done on your behalf with your assistant or the library  
11    you work with, correct?

12            A.     Yes.

13            Q.     Okay. There are things that you --  
14    articles that you asked counsel to provide you,  
15    correct?

16            A.     Yes.

17            Q.     And then there are things that the lawyers  
18    had in their own file that they provided to you  
19    without you making a specific request for, is that  
20    fair?

21            MS. HIBBERT: Objection to form.

22    BY MS. DICKINSON:

23            Q.     Does that summarize what you just told me?

24            A.     It does.

1 Q. Okay. That last bucket, the things the  
2 lawyers had that you had not specifically asked for or  
3 you haven't found on your own, how do I find those on  
4 this list of professional literature?

5 MS. HIBBERT: Objection to form.

6 BY THE WITNESS:

7 A. You would not be able to because I have  
8 not demarcated.

9 BY MS. DICKINSON:

10 Q. Okay. Do you have any idea as we sit here  
11 today which of those articles fall in that Category  
12 No. 4?

13 MS. HIBBERT: Objection to form.

14 BY THE WITNESS:

15 A. I could go through the list and give you  
16 some examples that I hope would be accurate, because I  
17 promise you there were things that they sent that  
18 they -- were in their file, I already had them. I had  
19 already read them. Things that were novel to me that  
20 I would not have necessarily seen had it not been for  
21 their prior research that they shared with me, I could  
22 go through the list and name a few if that would be of  
23 any help.

24 BY MS. DICKINSON:

1 Q. It would. Do you mind?

2 A. I don't.

3 Q. Okay.

4 MS. HIBBERT: Objection to form.

5 BY THE WITNESS:

6 A. Are you ready?

7 BY MS. DICKINSON:

8 Q. Yes.

9 A. I don't believe I had seen the Marchione.  
10 I had seen things similar, but I don't think I had  
11 seen that.

12 Q. Okay.

13 A. The one after that, whatever MagMutual is,  
14 I don't think I found that. I don't think the  
15 FDA news was one of mine.

16 Q. Is that the one right after the MagMutual?

17 A. Yes, ma'am.

18 I'm guessing on Baker. I don't know if  
19 I've read that before.

20 Q. Okay.

21 A. I had read the Peggy Compton article,  
22 Tompkins lead author, when it first came out, but it  
23 appearing on this list is a result of it being sent to  
24 me.



1 Q. Okay.

2 A. I didn't pull this one, but I had read it  
3 before.

4 Q. Okay.

5 A. I asked for Kendler, I was sent Noble, I  
6 think I was sent Volkow and Wang, Proceedings of  
7 National Academy of Sciences. That's a great article.  
8 Boscarino came off of another expert's report and then  
9 came into my report. I'm trying to remember that one.  
10 Boscarino's did not come from my research. The  
11 Degenhardt article did not come from my research. The  
12 Wise and Koob article did not come from my research.

13 Is Bosco list -- Boscarino listed twice or  
14 are there three Boscarinos? 2015 -- I think that  
15 Boscarino is listed twice.

16 Q. Okay.

17 A. It definitely is listed twice.

18 The NIH News and Events  
19 titled "10 Percent," I don't believe that came from  
20 me.

21 That's it.

22 Q. Okay. When -- just for -- so the record  
23 is clear, when you say it didn't come from you, then  
24 if it didn't come from you, it came from the lawyers

1 at Reed Smith, is that correct?

2 MS. HIBBERT: Objection to form.

3 BY THE WITNESS:

4 A. It came in the binder of literature that  
5 they shared with me from their previous research.

6 BY MS. DICKINSON:

7 Q. And when you say "they," you mean the  
8 lawyers at Reed Smith?

9 A. I do, ma'am.

10 MS. HIBBERT: Objection to form.

11 BY MS. DICKINSON:

12 Q. I was just trying to make sure that there  
13 wasn't anyone else that was providing you articles, is  
14 that fair?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. That is very fair.

18 BY MS. DICKINSON:

19 Q. Okay. And then could you quickly just  
20 take Exhibit 4, the few articles that were on that  
21 Exhibit 4.

22 Were those articles you found yourself  
23 following the generation of your expert report on  
24 May 10th and between that time and June 3rd, which is

1 the date on Exhibit 4 or were those provided to you?

2 MS. HIBBERT: Objection to form.

3 BY THE WITNESS:

4 A. Krebs was provided.

5 BY MS. DICKINSON:

6 Q. Okay.

7 A. Edlund and Vowles I requested.

8 Q. Okay.

9 A. Robins I basically requested. I had it,  
10 but they got the new copy.

11 Q. Had you reviewed any of the materials on  
12 Exhibit 4 prior to authoring your expert report in the  
13 case?

14 MS. HIBBERT: Objection to form.

15 BY THE WITNESS:

16 A. Could I have a moment?

17 BY MS. DICKINSON:

18 Q. Of course.

19 A. This may take a while, if you don't mind.

20 Q. Maybe I can ask the question just a little  
21 bit better and maybe it will make it faster, but I  
22 don't know.

23 A. I don't know if it will --

24 Q. Okay.

1           A.       -- but go ahead. Go ahead.

2           Q.       I was just going to say that Exhibit 4 is  
3       titled "Supplemental List of Materials Reviewed and  
4       Considered as of June 3rd, 2019"?

5           A.       That would suggest that they were not in  
6       my report and I -- and I read them after. I don't  
7       think they are cited in my report. I know Robins  
8       isn't, but I read that years ago.

9           Q.       Did you -- did you, for example, consider  
10      the Vowles article that's listed here in rendering  
11      your report on May -- prior to rendering your report  
12      on May 10th, I guess is the question?

13          A.       I -- I --

14          MS. HIBBERT: Objection to form.

15      BY THE WITNESS:

16          A.       -- I think not.

17      BY MS. DICKINSON:

18          Q.       Okay. The same with the Edlund study that  
19      appears on the supplemental list, did you consider  
20      that in rendering your opinions that were generated on  
21      May 10th?

22          MS. HIBBERT: Objection to form.

23      BY THE WITNESS:

24          A.       You have stated that correctly.

1 BY MS. DICKINSON:

2 Q. Okay. Same with Krebs, fair?

3 A. Yeah.

4 Q. Okay. And Robins, correct?

5 A. Yes.

6 MS. HIBBERT: Objection to form.

7 BY THE WITNESS:

8 A. Right.

9 MS. HIBBERT: Just give me a pause.

10 THE WITNESS: Yeah.

11 BY MS. DICKINSON:

12 Q. Okay. All right. You said when you were  
13 testifying a few minutes ago about the eight or so  
14 hours you spent in May reviewing articles, you used  
15 the word "extra articles." It may have just been that  
16 you misspoke, but I was just trying to understand,  
17 were there articles in May -- why did you use the word  
18 "extra"? Maybe that's the easiest way.

19 MS. HIBBERT: Objection to form.

20 BY THE WITNESS:

21 A. I think I --

22 THE WITNESS: Pardon me, ma'am. Pardon me.

23 I've been -- I've been very disrespectful to

24 Ms. Hibbert repeatedly, I'm sorry.

1 BY MS. DICKINSON:

2 Q. It's hard to do.

3 A. Well, I am trying to be conversational  
4 with you and she is --

5 Q. Right.

6 A. -- jumping in as she is required to do,  
7 and I appreciate it.

8 I used the wrong word. "Supplemental" is  
9 the right word.

10 Q. That's what I was getting at.

11 Were the eight hours spent reviewing the  
12 articles on Exhibit 4?

13 MS. HIBBERT: Objection to form.

14 BY THE WITNESS:

15 A. The eight hours included my rereading my  
16 stuff -- well, rereading the articles I cited.

17 BY MS. DICKINSON:

18 Q. Okay.

19 A. I -- I will -- I will violate the  
20 directions I've been given by my -- by -- by counsel.  
21 She said --

22 MS. HIBBERT: Please don't.

23 BY THE WITNESS:

24 A. -- "Know your report." And so I knew my

1 report. I read my report again and again and I reread  
2 the articles I used just to make sure because I knew I  
3 was coming to a deposition. So the eight hours was  
4 not for Exhibit 4.

5 BY MS. DICKINSON:

6 Q. Okay.

7 A. The eight hours included my rereading the  
8 literature that I had cited in my report to refresh my  
9 memory given that the original drafting had begun way  
10 back in September.

11 Q. Fair enough. I was just trying to  
12 understand whether there were extra articles because  
13 you used the word.

14 A. No, ma'am.

15 Q. Okay.

16 A. No, ma'am.

17 Q. All right. We can cross that off the  
18 list.

19 A. Right.

20 Q. In total -- the articles that are  
21 mentioned in your professional literature list, both  
22 on Appendix B of Exhibit 2 and Exhibit 4, did you read  
23 each article start to finish?

24 MS. HIBBERT: Objection to form.

1 BY THE WITNESS:

2 A. Essentially, yes, I read the whole thing.

3 BY MS. DICKINSON:

4 Q. Okay. And how many hours total did you  
5 spend reading and reviewing the articles that are  
6 listed in both Appendix B to Exhibit 2 and in  
7 Append -- and in Exhibit 4?

8 A. Ms. Dickinson, I'm -- I -- I obviously  
9 want to give you very accurate answers for the purpose  
10 of our meeting today and I really don't want to be  
11 tripped up by saying something that then didn't make  
12 sense.

13 Q. Okay.

14 A. It wasn't more than a hundred hours. I  
15 did spend time writing. I mean, I think I spent half  
16 of the hundred hours reading because it's a lot of  
17 reading. I think I probably spent, I don't know, 25  
18 to 40 percent of the time reading legal things and 60  
19 to 75 percent of the time reading journal articles.  
20 So some of the answers I've given before, if you  
21 compare them, and maybe, Ah-ha, his math is wrong.  
22 I'm doing my best.

23 Q. I'm actually not at all trying to trip you  
24 up on math. The problem is I don't have your invoices



1 in front of me. So it would be a lot easier if I did.  
2 Because I don't, I have to ask you the questions about  
3 what you did and when without the benefit of the  
4 documents.

5 Do you understand, I'm not trying to  
6 actually trip you up?

7 MS. HIBBERT: Objection to form, move to strike  
8 the colloquy.

9 BY MS. DICKINSON:

10 Q. Do you understand why I'm asking these  
11 questions and you have to answer them without the  
12 document in front of you?

13 MS. HIBBERT: Objection to form.

14 BY THE WITNESS:

15 A. Ah, yes, and I'm -- and I'm doing my best.  
16 So I would guess -- I would guess that I spent 30,  
17 40 hours just reading journal articles. That's just a  
18 guess.

19 BY MS. DICKINSON:

20 Q. Okay. And, again, if we had your  
21 invoices, would you know that is more for certain?

22 MS. HIBBERT: Objection to form.

23 BY THE WITNESS:

24 A. We'd have a really good estimate, yes,

1       ma'am.

2       BY MS. DICKINSON:

3           Q.       Okay. Let's move onto the depositions  
4       that you list here. There are one, two, three, four,  
5       five, six deposition transcripts.

6                   Is that -- have I read that correctly?

7           A.       Yes, ma'am.

8           Q.       Okay. Who determined which deposition  
9       transcripts you received in the case?

10                   Was it you?

11          A.       I don't know. I don't -- it was not me.

12          Q.       Okay.

13          MS. HIBBERT: Objection to form.

14       BY MS. DICKINSON:

15          Q.       Did you ask for all of the deposition  
16       transcripts in the case?

17          MS. HIBBERT: Objection to form.

18       BY THE WITNESS:

19          A.       I did not ask for any.

20       BY MS. DICKINSON:

21          Q.       And were the deposition transcripts  
22       provided to you by counsel at Reed Smith?

23          A.       Yes, ma'am.

24          Q.       Okay. Let's look at the last portion,

1     which is -- oh, I'm sorry. Can we just -- can I ask  
2     you one more question about the depositions?

3                     You had testified earlier about reading  
4     Dr. Lembke's deposition for roughly three hours. The  
5     remaining five depositions, do you know how much time  
6     you spent reviewing those?

7             MS. HIBBERT: Objection to form.

8     BY THE WITNESS:

9             A.     They are listed here, ma'am, but I don't  
10    recall reading any of those depositions besides  
11    Lembke's.

12    BY MS. DICKINSON:

13             Q.     Okay.

14             A.     And I read that one in detail.

15             Q.     Okay. Prior to rendering your report on  
16    May 10th, the only deposition you can recall reading  
17    prior to that report is Dr. Lembke's, is that fair?

18             MS. HIBBERT: Objection to form.

19    BY THE WITNESS:

20             A.     That's my best recollection.

21    BY MS. DICKINSON:

22             Q.     Okay. Have you read those depositions --  
23    depositions since rendering your report on May 10th?

24             A.     Yes.

1 Q. Okay. When did you do that?

2 A. Since May 10th.

3 Q. Okay.

4 A. Sometime in May.

5 Q. Why did you not review them before you  
6 rendered your opinions but you read them in May?

7 MS. HIBBERT: Objection to form.

8 BY THE WITNESS:

9 A. I did not have them. I wanted to -- my  
10 intent was to generate what I considered a clean  
11 report, which is my thoughts and -- and the opinions  
12 of Dr. Lembke are for a matter of the proceedings, not  
13 for a matter of my statement.

14 BY MS. DICKINSON:

15 Q. Fair.

16 How much time have you spent -- or  
17 actually, just have you reviewed each and every  
18 page of the rest of depositions after generating your  
19 report in May?

20 MS. HIBBERT: Objection to form.

21 BY THE WITNESS:

22 A. No, ma'am.

23 BY MS. DICKINSON:

24 Q. Okay. Did you read certain portions?

1           A.     No, ma'am.

2           Q.     Okay.  Would -- I guess I'm trying -- I  
3     asked you if you read the whole thing and I asked you  
4     if you read certain portions.

5                     What did you do with the rest of the  
6     deposition transcripts in terms of reading them?

7           A.     My best recollection, and I -- you know,  
8     this may be -- my memory may be off because obviously  
9     they are listed in the report and the date of the  
10    report is May the 10th.  I didn't think I read this  
11    stuff before -- oh, no, totally incorrect.  Totally  
12    incorrect.

13          Q.     Okay.

14          A.     Yeah.

15          Q.     You can correct it.

16          A.     Oh, yeah.  No, no, right.

17                    My report includes some rebuttal of some  
18    of these -- well, it -- no, it wasn't deposition.  
19    Let's be clear.  The last page is expert reports which  
20    you haven't gotten to.

21          Q.     Correct.

22          A.     I read all of those.

23          Q.     Okay.

24          A.     And I rebutted some of them in my report.

1 The deposition, I don't think I saw it until after the  
2 report was done, and that was Lembke, and I don't  
3 recall seeing the others even though they are listed  
4 here. So that may be a secretarial thing.

5 Q. No, that's fine.

6 Sitting here today, do you think you've  
7 read the other depositions other than Dr. Lembke?

8 A. I believe I have not.

9 Q. Okay. Let's flip over --

10 A. Yes, ma'am.

11 Q. -- to -- to the last portion which is the  
12 Plaintiffs' Expert Reports?

13 A. Yes, ma'am.

14 Q. You list a number of Plaintiffs' expert  
15 reports.

16 Do you know if these are all of the  
17 Plaintiffs' experts in this case?

18 MS. HIBBERT: Objection to form.

19 BY THE WITNESS:

20 A. I have no idea.

21 BY MS. DICKINSON:

22 Q. Okay. Did you select which Plaintiffs'  
23 experts reports you wanted to look at in this case?

24 A. No.

1 Q. Okay. Did the counsel at Reed Smith  
2 select those?

3 MS. HIBBERT: Objection to form.

4 BY THE WITNESS:

5 A. I believe so.

6 BY MS. DICKINSON:

7 Q. And the counsel at Reed Smith sent you the  
8 reports that are listed here, is that right?

9 A. That is correct.

10 Q. Okay. Do you know when you received the  
11 reports that are listed here?

12 A. I do not.

13 Q. And you said you read all of those reports  
14 cover to cover, is that right?

15 A. I did.

16 Q. Okay. Do you know how long you spent  
17 doing that?

18 A. Six, eight maybe.

19 Q. And when you say, "six, eight," six, eight  
20 hours?

21 A. Hours, yes, ma'am.

22 Q. If you had your invoices, would you know  
23 how long you spent reading the reports?

24 A. Yes, ma'am.

1 MS. HIBBERT: Objection to form.

2 Give me a pause, Dr. Miller.

3 THE WITNESS: Sorry.

4 BY MS. DICKINSON:

5 Q. Did you ask for any other expert reports  
6 that you didn't receive?

7 A. No.

8 Q. Okay. Did you ask counsel to provide you  
9 with certain specialties of expert reports or did  
10 counsel simply select?

11 MS. HIBBERT: Objection to form.

12 BY THE WITNESS:

13 A. Counsel selected.

14 BY MS. DICKINSON:

15 Q. Did you review the attachments to the  
16 Plaintiffs' experts reports that are on your  
17 Appendix B of Exhibit 2?

18 A. I'm sorry. Did I --

19 Q. Did you review the attachments to the  
20 expert reports or just the reports themselves? A lot  
21 of these reports have various attachments or  
22 appendix -- appendices.

23 A. Oh, the Lembke report came as two huge  
24 ring binders and all of her attachments, and I did not



1 read all of that stuff.

2 Q. Okay. What portion of the binders did you  
3 read?

4 MS. HIBBERT: Objection to the form.

5 BY THE WITNESS:

6 A. I read her bibliography and I'm pretty  
7 sure that she had articles from her bibliography  
8 preprinted attached to the report and I read a number  
9 of those, but there was other stuff she -- there was a  
10 transcript of a public radio show or something and  
11 there was the entire photocopy of her book, which I --  
12 I bought her book, I haven't read it yet, and I just  
13 glossed over it to see what it was. The only thing --  
14 the only things I would have read were her report in  
15 full and literature articles she cited, not all of  
16 that other, what did you call them, attachments, yeah,  
17 yeah, no, I didn't read that stuff.

18 BY MS. DICKINSON:

19 Q. Okay. Would the time spent reviewing  
20 Dr. Lembke's articles or materials that were sent in  
21 the binders, would -- would that be included in the  
22 six to eight hours that you said you spent on the  
23 Plaintiffs' expert report review or is that something  
24 in addition?

1           A.       Included.

2           Q.       Okay. I think -- actually, do you have  
3 something...

4                    Do you know or do you -- do you still have  
5 the binders that were sent regarding Dr. Lembke?

6           A.       I do.

7           Q.       Okay. Are those in your physical file?

8           MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10          A.       Yes.

11 BY MS. DICKINSON:

12          Q.       Okay. Do you know if all of the materials  
13 that were in those binders are on the literature list  
14 of your materials considered or are there additional  
15 materials in those binders?

16          MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18          A.       Let me answer your question to the best of  
19 my ability.

20 BY MS. DICKINSON:

21          Q.       Okay.

22          A.       She chose her list of articles. Edlund  
23 and Vowles were examples. So if she had an article I  
24 thought was relevant, I put it here. If she had other

1 stuff that I didn't find relevant to anything except  
2 to her opinion, she is entitled to her opinion, I  
3 didn't list it. It's -- it's -- it's -- but she  
4 listed it --

5 Q. Okay.

6 A. -- so it's a matter of court record.

7 Q. Oh, sure. I was just trying to understand  
8 what it was that you read with respect to her  
9 materials. Does that make sense? I mean, if you have  
10 any idea of which materials of hers you read or maybe  
11 you don't. I'm -- I'm just trying to understand what  
12 you actually looked at in that set of materials.

13 MS. HIBBERT: Objection to form.

14 BY THE WITNESS:

15 A. What's going through my mind, madam, is  
16 that it -- it's sort of a blur. I'm trying to make a  
17 separation in my mind between her report and her  
18 deposition and articles that she cited in one versus  
19 the other.

20 If she cited it in her report and you know  
21 that I had rebutted some things she said in her report  
22 in my report, I could have included those articles in  
23 my list of articles. If there is something that she  
24 cited in her deposition that was not previously

1 listed, I -- I -- I think that's where this -- this is  
2 where this list of -- I don't know where Krebs came  
3 from, but Edlund and Vowles were things she really  
4 relied on and I really wanted to study those  
5 carefully. And so I listed them here. There is  
6 nothing else that was in those binders that is not  
7 listed in Appendix 4 -- I'm not -- not listed in  
8 Exhibit 4 or Exhibit 2.

9 BY MS. DICKINSON:

10 Q. Okay.

11 A. Nothing.

12 Q. Did reviewing the list of materials on  
13 Exhibit 4 change your opinions from your May 10th  
14 report in any way?

15 A. No.

16 Q. Okay. All right. I think this is a good  
17 time to take a lunch break, and maybe we only have one  
18 more segment to go, but I can't promise. I'm just  
19 going to try, okay. So --

20 A. That's cool.

21 MS. DICKINSON: So let's try to take a quick one  
22 given that because I don't think we are going to go,  
23 you know, three more segments here.

24 THE WITNESS: Yeah.

1 MS. DICKINSON: So however long you need, but  
2 I'm going to be back in here in 20 or 25 minutes. How  
3 about that?

4 THE WITNESS: Are -- are we off the record?

5 MS. HIBBERT: Not yet.

6 THE VIDEOGRAPHER: We are off the record at  
7 12:50 p.m.

8 (WHEREUPON, a recess was had  
9 from 12:50 to 1:28 p.m.)

10 THE VIDEOGRAPHER: We are back on the record at  
11 1:28 p.m.

12 BY MS. DICKINSON:

13 Q. Okay. Dr. Miller, we are back on the  
14 record after lunch. If you could pull out Exhibit 2  
15 and turn to Appendix A, that would be helpful for the  
16 next line of questions.

17 A. All righty.

18 Q. Okay. And just so the record is clean,  
19 remind me what Appendix A is in Exhibit 2?

20 A. It is my curriculum vitae.

21 Q. Oh, you know what, I -- let's actually not  
22 do that. If you could pull out Exhibit 3, I'm sorry,  
23 your current curriculum vitae, that would be helpful.

24 A. Okay.

1 Q. Okay. Dr. Miller, prior to this case had  
2 you ever worked with AmerisourceBergen before?

3 A. No, ma'am.

4 Q. Okay. Prior to this case, had you done  
5 any other work for any other pharmaceutical companies?

6 MS. HIBBERT: Objection to form.

7 BY THE WITNESS:

8 A. Yes.

9 BY MS. DICKINSON:

10 Q. Okay. I'm going to try to make this as  
11 quick as I can. If you can turn to Page 11 of  
12 Exhibit 3 -- I'm sorry. Maybe it is Page 10. I'm  
13 sorry.

14 Page 10 had -- has a section that starts  
15 and it says, "Consulting Positions."

16 Do you see that?

17 A. Yes, ma'am.

18 Q. Would all of the work that was -- that you  
19 have done with pharmaceutical companies be listed in  
20 this section regarding consulting positions?

21 A. I believe it would.

22 Q. Okay. Could we go through this list of  
23 consulting positions and you identify for me which  
24 ones are consulting positions with pharmaceutical

1 companies, just so we can make the record clear?

2 A. Yes, ma'am.

3 Q. Okay.

4 A. On Page 11, No. 4, Braeburn.

5 Q. Okay.

6 A. Two down from that, BioDelivery Sciences.

7 Q. Okay.

8 A. Below that, Purdue Pharma. On the next  
9 page, the top of the page, US WorldMeds.

10 Q. Okay.

11 A. And just below the middle of that  
12 page another US WorldMeds. Those are the  
13 pharmaceutical companies.

14 Q. Okay. Let us, if you could, let's turn  
15 back to the first one, Brae -- Braeburn  
16 Pharmaceuticals.

17 It looks like from your CV that you did --  
18 have done work for Braeburn Pharmaceuticals from  
19 January of 2013 to the present.

20 Is that accurate?

21 A. The relationship has not closed, but there  
22 has been no activity in many years. This activity was  
23 pretty much 2013, '14, maybe '15.

24 Q. Okay. And what were you doing for

1 Braeburn Phar -- Pharmaceuticals in between 2013 and  
2 2015?

3 A. They established an advisory board of  
4 addiction experts and key opinion leaders to talk  
5 about a product they wanted to bring to market.

6 Q. And what was that product?

7 A. The tradename is Probuphine.

8 Q. And what is Probuphine?

9 A. It is an implantable form of Buprenorphine  
10 that's used to treat opioid addiction.

11 Q. Okay. And were -- how much time did you  
12 spend on the advisory board for Braeburn  
13 Pharmaceuticals in between 2013 and 2015?

14 A. I would estimate less than 20.

15 Q. And when you say that, 20 hours?

16 A. Yes, ma'am.

17 Q. Okay. Were you compensated for your time?

18 A. Yes, ma'am.

19 Q. At what rate?

20 A. I don't recall exactly, and it was not a  
21 rate that I set. It was a usual and customary rate  
22 set by them based on industry standards and FDA  
23 regulations.

24 Q. Okay.



1           A.     And it was a daily rate more than an  
2     hourly rate.

3           Q.     Fair enough.

4                     Do you recall what the daily rate roughly  
5     was?

6           A.     Being that it was that many years ago, I  
7     think it was in the vicinity of [REDACTED]

8           Q.     Okay. And typically -- or actually, why  
9     don't I ask you this:

10                    What were you doing when you sat on the  
11     advisory board for Braeburn Pharmaceuticals?

12           A.     Providing information about patients with  
13     opioid addiction, the kind of patients who might be  
14     candidates for this medication, existing medications  
15     in the market and how this might find its own market  
16     niche. We also talked about how to use this  
17     medication, how to train physicians, how to market the  
18     drug to physicians. I believe that's the summary.

19           Q.     Okay. During -- when you were serving on  
20     the advisory board, did Braeburn Pharmaceuticals pay  
21     for your travel expenses with respect to your time on  
22     the advisory board?

23           A.     Yes.

24           Q.     Did they pay for your meals with respect

1 to your time that you were spending on the advisory  
2 board?

3 A. Yes.

4 Q. Okay. Did you have a written agreement  
5 with Braeburn Pharmaceuticals?

6 A. Yes.

7 Q. Okay. Do you still have that?

8 A. I think I could find it, yes.

9 Q. Do you know if that agreement has now  
10 expired or is it currently ongoing, you just haven't  
11 done any work for them?

12 A. I don't know the answer to that question.  
13 I -- I can tell you, I'm, again, saying more than a  
14 yes-or-no answer, the folks involved with that company  
15 still come to ASAM meetings, American Society of  
16 Addiction Medicine, I see people there, there is  
17 nothing active that they are asking me to do. There  
18 is the potential that there could be. So it's -- it  
19 was -- I have not looked to see if there was an  
20 expiration date.

21 Q. Do you know if -- typically in advisory  
22 boards is it fair to say that you are providing  
23 feedback to the pharmaceutical company?

24 MS. HIBBERT: Objection to form.

1 BY THE WITNESS:

2 A. Well, feedback means they present you  
3 something and you react to it, and some of it was that  
4 they would present us something and we would react to  
5 it. There is a -- you know, documents that they must  
6 create. I'm not recalling with this product if we met  
7 before or only after the new drug application was  
8 approved by the FDA, but they would sometimes show us,  
9 you know, we are thinking of presenting this to the  
10 FDA and do you agree with that or how would you phrase  
11 it. And of course marketing materials. And so some  
12 of it was feedback but some of it was just, You tell  
13 us about patient types.

14 Q. Okay. Who was your main contact at  
15 Braeburn Pharmaceuticals?

16 A. There was a -- an individual that I was  
17 introduced to who arranged the relationship, and I  
18 don't remember the extent to which she was on the  
19 payroll or a consultant to them, and her name is  
20 Sonnie Kim.

21 Q. Okay.

22 A. S-o-n-n-i-e, Kim, she is Korean.

23 Q. And when you received compensation with  
24 respect to your role on the advisory board for

1 Braeburn, was that compensation being paid directly by  
2 Braeburn or some other third party?

3 A. I think it was paid by Braeburn.

4 Q. Okay. Okay. Let's go on to the next  
5 pharmaceutical company for which you worked -- did  
6 work with, and -- and that one you identified as  
7 BioDelivery Service -- or Sciences, is that right?

8 A. Right.

9 Q. Okay.

10 A. They go by BDSI.

11 Q. I'm sorry. Say it again. BDSI?

12 A. SI.

13 Q. Okay.

14 A. For "Incorporated."

15 Q. And what -- what were you doing for BDSI?

16 A. Well, their product is a very, very  
17 interesting product, and this was direct work and your  
18 previous question was pharmaceutical company, Curry  
19 Rockefeller is not a pharmaceutical company, but they  
20 work -- provide services for pharmaceutical companies.  
21 So some of the contract work was with Curry  
22 Rockefeller as opposed to with BDSI itself, but I had  
23 relationships with both regarding this particular  
24 product called Bunavail, which is another formulation

1 of Buprenorphine which is a specialized partial opioid  
2 agonist, a-g-o-n-i-s-t, used to treat opioid  
3 addiction.

4 Q. Okay. And it -- the -- your CV states  
5 that you work -- did the work from February 2014 to  
6 December 2016, is that accurate?

7 A. Correct.

8 Q. And I'm sorry. Curry Rockefeller, what  
9 kind of entity was that or what did they do?

10 A. It's a consulting firm that says that  
11 their services are education, and so some of it is  
12 developing formal patient education documents required  
13 by the FDA and some is marketing materials.

14 Q. You said the -- you said they say that  
15 their services are educational in a way that made --  
16 made me think that you were thinking it was something  
17 else.

18 Is that -- did I understand you correctly  
19 or not?

20 MS. HIBBERT: Objection to form.

21 BY THE WITNESS:

22 A. Well, if -- if it's -- if it's marketing  
23 materials, the word "promotional" would be an  
24 appropriate word.

1 BY MS. DICKINSON:

2 Q. I -- I just want to understand, was it  
3 your feeling that these educational materials were  
4 really more like promotional materials?

5 MS. HIBBERT: Objection to form.

6 BY THE WITNESS:

7 A. Some yes, some no. And -- and, again,  
8 some of it was also, How do you develop continuing  
9 education programs for physicians. And so some of it  
10 was, What would the content of a continuing education  
11 program be to practicing physicians to teach them  
12 about this medication.

13 BY MS. DICKINSON:

14 Q. Okay. Fair.

15 For this engagement with Bi -- the  
16 pharmaceutical company BioDelivery Sciences, were you  
17 compensated?

18 A. Yes.

19 Q. Okay. And in what amount? Or in what  
20 way, an hourly rate or daily or --

21 A. A daily rate.

22 Q. Okay.

23 MS. HIBBERT: Objection to form.

24 Dr. Miller, please give me a pause after

1 the question is asked --

2 THE WITNESS: Okay.

3 MS. HIBBERT: -- so I can put an objection on  
4 the record, okay?

5 MS. DICKINSON:

6 Q. And what was the daily rate that you were  
7 compensated on by BioDelivery Sciences?

8 A. My recollection would be less than [REDACTED]

9 [REDACTED]  
10 Q. And do you know how much time in between  
11 2014 of -- April 20- -- I'm sorry -- December 2014 and  
12 December 2016 you spent performing services for  
13 BioDelivery Sciences?

14 A. My recollection would be three days max.

15 Q. Can you briefly describe what type of  
16 services you were providing to BioDelivery Sciences?

17 A. I think my answers that are provided for  
18 Braeburn would apply to BioDelivery Sciences.

19 Q. The same kind of work?

20 A. Yes.

21 Q. Okay. And the same questions as I asked  
22 you for Braeburn, when you were working for  
23 BioDelivery Sciences, when you were serving on the  
24 advisory board, did they pay your travel with respect

1 to your services on the advisory board?

2 A. Yes, ma'am.

3 Q. Did the BioDelivery Service -- Sciences  
4 pay for your meals with respect to your services?

5 A. Yes, ma'am.

6 Q. Was there a reason that you stopped  
7 working in 2016 for BioDelivery Sciences?

8 A. They stopped supporting the product.

9 Q. Okay. Did they ever bring that product to  
10 market?

11 A. Oh, yes.

12 Q. Okay. What did you mean by "they stopped  
13 supporting the product"?

14 A. If you support a product, you generate  
15 educational materials, you have a sales staff, a  
16 marketing staff and you are really trying to actively  
17 grow market share, you are trying to sell --

18 Q. Uh-huh.

19 A. -- more product, and they pulled all of  
20 their investment in this product and went to a  
21 different product. I think -- I think I'll -- I'll  
22 just say that.

23 Q. Okay. Do you -- do you know why they  
24 pulled their investment and went to a different



1 product?

2 MS. HIBBERT: Objection to form, calls for  
3 speculation.

4 BY THE WITNESS:

5 A. Pardon me for sounding lawyerly, but I  
6 think that there was probably a confidentiality  
7 agreement with them that would prevent me from sharing  
8 any of that sort of information.

9 BY MS. DICKINSON:

10 Q. Okay. Totally fair. I don't want to get  
11 you into anything that would --

12 A. Right.

13 Q. -- run you afoul of that.

14 So had -- you said they went to a new  
15 product -- or BioDelivery Sciences went to a new  
16 product.

17 What was the new product?

18 A. I don't remember the name of it, but I  
19 could describe it to you.

20 Q. Okay. Please do.

21 A. Okay. What is unique about this product  
22 is the engineering of how it's delivered to the  
23 bloodstream, and it's -- the engineering has to do  
24 with a patch that you don't put on your skin and it's

1 not like some other Buprenorphine products that you  
2 put under your tongue and dissolve, but it's a patch  
3 that you place on the inside of your cheek.

4 Q. Okay.

5 A. And it has a special engineering to stick  
6 to the inside of your cheek and it has a special  
7 engineering for the active ingredient to flow from the  
8 product into your bloodstream --

9 Q. Okay.

10 A. -- which has to do with all sorts of  
11 physiology and pharmacology and physics, and that was  
12 the engineering.

13 And they developed another product using  
14 that engineering that was a treatment for pain as  
15 opposed to a treatment for addiction and had a  
16 different brand name, a different strength, and they  
17 thought that their -- buccal means inside the cheek --  
18 they thought that product would have a better chance  
19 of improving the company's bottom line than the  
20 Bunavail product.

21 Q. Did they stop selling the original  
22 Bunavail product?

23 A. No, you --

24 MS. HIBBERT: Objection to form.

1 BY THE WITNESS:

2 A. -- you can buy it today. You can -- I can  
3 prescribe it today.

4 BY MS. DICKINSON:

5 Q. But internally they stopped -- I think  
6 your words were "supporting" --

7 A. Right.

8 Q. -- the Bunavail product, correct?

9 A. Right.

10 Q. Okay. And were they then turning to  
11 supporting the new product that was being used in the  
12 treatment for pain instead, is that a fair --

13 A. That's my understanding.

14 MS. HIBBERT: Objection to form.

15 Dr. Miller --

16 THE WITNESS: Oh, I'm sorry.

17 BY MS. DICKINSON:

18 Q. And at that time is that the reason you  
19 stopped working for BioDelivery Sciences?

20 MS. HIBBERT: Objection to form.

21 BY THE WITNESS:

22 A. Yes. I really liked the product and I  
23 wished they had kept it going, and they stopped the  
24 support which included paying physicians to help them

1 with it.

2 BY MS. DICKINSON:

3 Q. Did you use BioDelivery Sciences's product  
4 Bunavail at any time in your practice?

5 A. Yes.

6 Q. How often? Frequently?

7 A. No.

8 Q. Did you use the -- the other product, the  
9 one that was in the treatment for pain in your  
10 practice at any time?

11 A. No, ma'am.

12 Q. Okay. Why not?

13 A. Because I'm not a pain medicine doctor.

14 Q. I forgot to ask you with respect to your  
15 work for Braeburn Pharmaceuticals, did you use -- or  
16 did their product come to market? I'm sorry.

17 A. Yes.

18 Q. And did you use their product in your  
19 practice?

20 A. No.

21 Q. Why not?

22 A. Because I never went through the training  
23 because it's an injectable and there are specific  
24 things you have to do to be trained to be someone to

1 put the implant in and take the implant out.

2 Q. Was it -- it wasn't something you thought  
3 would be useful in your practice, I take it?

4 MS. HIBBERT: Objection to form.

5 BY THE WITNESS:

6 A. I believe the product has merit and could  
7 have been helpful to some of my patients, but I  
8 decided to not go through the steps required to obtain  
9 the expertise to do a minor office surgical procedure  
10 in the practice settings where I practiced because it  
11 is a minor surgical procedure.

12 BY MS. DICKINSON:

13 Q. Okay. All right. Let's move to the next  
14 one, Purdue Pharma.

15 A. Yes, ma'am.

16 Q. I see from your CV that you did work for  
17 Purdue Pharma, it says from October 2016 to  
18 December 2016.

19 Is that accurate?

20 A. Yes, ma'am.

21 Q. Okay. Was that the first, October 2016,  
22 was that the first time you had ever worked with  
23 Purdue Pharma?

24 A. Yes, ma'am.

1 Q. Had you ever come in contact with anyone  
2 at Purdue Pharma prior to October 2016?

3 MS. HIBBERT: Objection to form.

4 BY THE WITNESS:

5 A. Could you restate that?

6 BY MS. DICKINSON:

7 Q. Yes.

8 Had you ever come in contact with anyone  
9 at Purdue Pharma prior to the time you went to work  
10 for them in October of 2016?

11 MS. HIBBERT: Same objection.

12 BY THE WITNESS:

13 A. I was in places where their sales force  
14 was promoting their drug, exhibits at meetings.  
15 Because I didn't prescribe their products, I didn't  
16 talk to them about it. I would say I had no contact  
17 with any quote/unquote corporate types. So there is  
18 nothing of substance that I would say would be an  
19 affirmative answer to your question before I got this  
20 phone call from Purdue Pharma.

21 BY MS. DICKINSON:

22 Q. Okay. What types of meetings would you be  
23 at where there were sales representatives promoting  
24 products to other doctors?

1 MS. HIBBERT: Objection to form.

2 BY THE WITNESS:

3 A. Medical conferences where there would be  
4 an exhibit hall.

5 BY MS. DICKINSON:

6 Q. Okay. Can you give me a couple of  
7 examples of what types of medical conferences you were  
8 attending where there would be sales reps promoting  
9 Purdue's products?

10 MS. HIBBERT: Objection to the form.

11 BY THE WITNESS:

12 A. Madam, that's a very good question because  
13 I'm originally trained in psychiatry and I go to  
14 psychiatry meetings and I am an addiction medicine  
15 physician, go to addiction meetings, and I'm trying to  
16 think if I ever, for instance, would speak at a pain  
17 conference. Certainly I've -- I've been -- yes, I've  
18 been on the faculty for a pain board review course  
19 right here in Madison at the university. And there  
20 could have been Purdue Pharma reps having an  
21 exhibit promoting their pain products to pain doctors  
22 at those sorts of meetings.

23 BY MS. DICKINSON:

24 Q. Okay. What was the first -- was

1     October 2016 the first date on which you performed  
2     work for Purdue?

3             A.     Yes.

4             Q.     Okay. How did you first come in contact  
5     with Purdue Pharma?

6             A.     I got a phone call --

7             MS. HIBBERT: Objection to form.

8             THE WITNESS: Sorry.

9     BY MS. DICKINSON:

10            Q.     Go ahead.

11                    Do you want me to repeat the question?

12            A.     No.

13            Q.     How did you first come in contact with  
14     Purdue Pharma?

15            MS. HIBBERT: Objection to form.

16     BY THE WITNESS:

17            A.     I got a phone call from a member of their  
18     staff.

19     BY MS. DICKINSON:

20            Q.     Who is that?

21            A.     Gina Barbara -- Barbarotta, I believe it  
22     is.

23            Q.     Could you give her your best idea of how  
24     that is spelled, her last name?



1           A.       Again, I -- I don't have any devices here,  
2       so I can't look her up, because she is not with them  
3       anymore, but B-a-r-b-a-r-o-t-t-a, I believe it is.  
4       G-i-n-a, Gina Barbarotta.

5           Q.       Did you know Ms. Barbarotta before you  
6       received the phone call?

7           A.       I did not.

8           Q.       Okay. Who -- what position did  
9       Ms. Barbarotta hold at Purdue at the time you received  
10      the phone call?

11          A.       My understanding is that her job was to  
12      help populate physician advisory boards for them. She  
13      would find physicians to sit on ad boards.

14          Q.       And is that what the phone call was asking  
15      you to do?

16          A.       It was, but it was a different kind of ad  
17      board.

18          Q.       Okay. Let's talk about that. So what was  
19      Ms. Barbarotta asking you to do?

20          MS. HIBBERT: Objection to form.

21      BY THE WITNESS:

22          A.       She was asking me to sit on an advisory  
23      board, not for a pain medication or a product they  
24      were selling, but to sit on an ad board to advise

1 senior leadership of Purdue Pharma about addiction.

2 BY MS. DICKINSON:

3 Q. Okay. Anything else she told you about  
4 what she wanted you to do when you had that first  
5 conversation?

6 A. My best guess is that any answer to that  
7 question or follow-up questions of a similar type  
8 would be covered by a confidentiality agreement I  
9 signed with Purdue Pharma regarding being a member of  
10 this addiction advisory board that I sat on.

11 Q. Okay. Do you -- can you tell me who the  
12 senior leadership was that you were hired to advise  
13 about addiction?

14 MS. HIBBERT: Objection to form.

15 BY THE WITNESS:

16 A. There was a -- I believe he was the chief  
17 medical officer for the company. When we met I  
18 believe, if my memory serves me, the chief marketing  
19 officer and the CEO of the whole company sat in for  
20 part of the meeting.

21 BY MS. DICKINSON:

22 Q. Okay. How many -- how many meetings did  
23 you have in the course of sitting on this advisory  
24 board for Purdue Pharma?

1           A.       One face-to-face meeting and I think two  
2 follow-up conference calls.

3           Q.       Okay. Tell me when the face-to-face  
4 meeting was? Was it sometime during -- between  
5 October and December of 2016?

6           A.       I believe it was in October.

7           Q.       Okay. And who was present at the  
8 face-to-face meeting?

9           A.       Physicians, many of whom I knew from the  
10 addiction community, and a variety of employees from  
11 Purdue. I would say 60 to 75 percent of the people in  
12 the room were Purdue people because they wanted to  
13 have a large number of their people hear directly what  
14 the advisers were sharing.

15          Q.       Okay. How many people from Purdue would  
16 you estimate were in the room on that day?

17          MS. HIBBERT: Objection to form.

18          BY THE WITNESS:

19          A.       I would say between 15 and 20.

20          BY MS. DICKINSON:

21          Q.       Okay. And that included both the chief  
22 marketing officer and the chief medical officer?

23          MS. HIBBERT: Objection to form.

24          BY MS. DICKINSON:

1 Q. I think you told me that -- a minute ago  
2 that the chief marketing officer --

3 A. Yes, sir -- yes, ma'am.

4 Q. -- and the chief medical officer sat in on  
5 a meeting that you had at Purdue, was -- did the chief  
6 marketing officer and the chief medical officer sit in  
7 on that meeting in October?

8 MS. HIBBERT: Objection; form, mischaracterizes.  
9 He said he believes that they may have.

10 But you can answer, Dr. Miller.

11 BY THE WITNESS:

12 A. Yes.

13 BY MS. DICKINSON:

14 Q. Okay. I'm going to ask the question again  
15 because I'm totally confused now.

16 Is your answer yes that -- that you  
17 believe the chief marketing officer and the chief  
18 medical officer were at that October meeting?

19 MS. HIBBERT: Objection to form.

20 BY THE WITNESS:

21 A. Yes.

22 BY MS. DICKINSON:

23 Q. Okay. Do you know either one of those  
24 individuals' names?

1           A.     I also don't know if they are still there.

2           Q.     That's okay.

3                   Do you know either one of those two  
4 individuals' names?

5           A.     Uhn-uhn.

6           Q.     Okay.

7           A.     I'm sorry, ma'am, to the transcriptionist,  
8 "no," not "uhn-uhn."

9           Q.     Do you -- other than Ms. Barbarotta, do  
10 you know any of the other Purdue employees' names that  
11 were in the room of the 15 to 20 people?

12          A.     David Haddox was there.

13          Q.     Okay. Did you know Dr. Haddox before this  
14 October meeting?

15          A.     Yes.

16          Q.     How?

17          A.     He came to ASAM conferences because he is  
18 a member.

19          Q.     When did you first meet David Haddox?

20          A.     I don't remember, but I would estimate it  
21 was at least four years prior and maybe a long time  
22 before that.

23          Q.     Okay. How often per year did you interact  
24 with David Haddox?

1           A.       Less than once a year. Let me answer your  
2 question. I think I probably ran into David four to  
3 six times over a span of years.

4           Q.       Okay. During those four to six times, did  
5 you ever have substantive interaction with David  
6 Haddox on the issue of opioids?

7           MS. HIBBERT: Objection to form.

8 BY THE WITNESS:

9           A.       I'm going to speculate and give you a -- a  
10 yes answer to that.

11 BY MS. DICKINSON:

12          Q.       Okay. What was the substance of the  
13 conversation you had with David Haddox on the  
14 substance -- that had to do with opioids?

15          MS. HIBBERT: Objection to form, calls for  
16 speculation.

17 BY THE WITNESS:

18          A.       The American Society of Addiction Medicine  
19 has offered a special continuing education course for  
20 20 years now called "Pain and Addiction: Common  
21 Threads."

22          Q.       Okay.

23          A.       I have been on the faculty of that course  
24 a number of times and have served on the program

1 committee for that course for a number of years, all  
2 of which is reflected somewhere in Exhibit 3.

3 Q. Okay.

4 A. Both of those, look for the words "Common  
5 Threads."

6 Dr. Haddox attended and served as faculty.  
7 I don't believe he ever served on the program  
8 committee. But I would interact with him by sitting  
9 in the audience with him, we would discuss informally  
10 presentations that were made. We were acquainted.

11 I will go a bit afield and say I was  
12 President of the American Society of Addiction  
13 Medicine, so I was more known to others than I would  
14 know them. Everybody knows who the president is.

15 Q. Right.

16 A. And so he made himself familiar to the  
17 president. So we had an acquaintanceship through the  
18 American Society of Addiction Medicine where he was a  
19 dues paying member, so we were equals in that regard.

20 So that's where -- or that would be the  
21 context in which we might have interactions regarding  
22 the substance of opioids, and one of the main purposes  
23 of the Common Threads course is what do you do if  
24 there is a common thread, what if you have a patient

1 with addiction who has pain, how do you manage pain in  
2 a patient with addiction, and would you ever use an  
3 opioid to treat pain in a patient with addiction. And  
4 certainly Dr. Haddox had opinions about that, as would  
5 other people.

6 So that -- that's -- when you said was  
7 there a discussion about substance, that's what it  
8 would have included.

9 Q. Did you ever have lunches or dinner with  
10 Dr. Haddox outside of presentations at ASAM?

11 MS. HIBBERT: Objection to form.

12 BY THE WITNESS:

13 A. None that I can recall.

14 BY MS. DICKINSON:

15 Q. Did you have -- for your work with Purdue  
16 Pharma, did you have a written agreement?

17 A. Yes.

18 Q. Okay. Do you still have a copy of that?

19 A. Probably.

20 Q. Okay.

21 Was the written agreement to provide  
22 services on their advisory board that we just  
23 discussed?

24 MS. HIBBERT: Objection to form.



1 BY THE WITNESS:

2 A. On this advisory board, yes.

3 BY MS. DICKINSON:

4 Q. Did you provide any services to Purdue  
5 Pharma other than work on this advisory board?

6 A. No.

7 Q. Okay. You said there was a one-day  
8 meeting.

9 Where did that take place?

10 A. Corporate headquarters, Stamford,  
11 Connecticut.

12 Q. Okay.

13 And you said there were a number of  
14 physicians in attendance. Were those physicians also  
15 members of the advisory board?

16 A. Yes.

17 Q. Can you tell me who any of those  
18 physicians were?

19 A. The one I have the greatest recollection  
20 of is my friend and colleague, David Gastfriend,  
21 G-a-s-t-f-r-i-e-n-d, M.D.

22 Q. Okay. Anyone else that you can remember  
23 that was at that meeting that was a physician?

24 A. I do not have specific recollections of

1 others besides David.

2 Q. Do you know -- did -- did the physicians  
3 on the advisory board that day give presentations?

4 A. No.

5 Q. Okay. What -- what was the structure of  
6 the one-day meeting?

7 MS. HIBBERT: Objection to form.

8 BY THE WITNESS:

9 A. Roundtable.

10 BY MS. DICKINSON:

11 Q. Did it have an agenda?

12 A. Yes.

13 Q. Do you know what types of issues were on  
14 that agenda?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. Yes.

18 BY MS. DICKINSON:

19 Q. Okay. What types of issues?

20 MR. HADAGHIAN: Counsel for Purdue joins the  
21 objection.

22 (Reporter clarification.)

23 BY MS. DICKINSON:

24 Q. I'm sorry. Do you know what types of

1 issues were on the agenda at that October meeting?

2 MS. HIBBERT: I'll object to form and also to  
3 the extent that any of these -- this information is  
4 protected pursuant to your confidentiality agreement,  
5 I would instruct the witness not to answer.

6 MR. HADAGHIAN: Counsel for Purdue joins the  
7 objection.

8 BY THE WITNESS:

9 A. I believe I can say something general that  
10 is not forbidden by the confidentiality agreement.

11 BY MS. DICKINSON:

12 Q. Okay.

13 A. Again, in general, actually what we were  
14 told is that this would be experts to advise Purdue on  
15 what it could do about addiction. And the substance  
16 of what we advised them I certainly can't share with  
17 you.

18 In the course of the day other than the  
19 roundtable they threw in a couple of extra things, and  
20 one was to present data on other products that they  
21 had that had reached market or were being considered  
22 for market, and I would put this under the overall  
23 category of abuse deterrent formulations. So some of  
24 their medication development folks used this audience

1 to throw out some ideas that quite honestly I thought  
2 was off topic and I think my colleagues thought was  
3 off topic, and it was like, What -- what's all this.  
4 And we were not terribly helpful to them because we  
5 said, You're choosing the time to do that, we thought  
6 we were going to talk about addiction.

7 So the agenda included that they wanted to  
8 throw these things in that we thought were not  
9 pertinent to what we were doing in giving them advice,  
10 but -- so that's general subject headings, but you  
11 said -- what was it -- so in general, no, none of  
12 the -- none of the physician experts who were brought  
13 in gave presentations. We all were in a roundtable  
14 discussing concepts and brainstorming.

15 Q. Okay. Did you feel like the other  
16 subjects that were thrown in about abuse deterrent  
17 formulations, did you feel like that was a sales  
18 pitch?

19 MS. HIBBERT: Objection to form.

20 MR. HADAGHIAN: Counsel for Purdue joins the  
21 objection.

22 BY MS. DICKINSON:

23 Q. Go ahead.

24 A. I believe -- I believe you understand that

1     this has nothing to do with the opinions I was asked  
2     to formulate in this case.

3             Q.     Understood.

4             A.     This is completely off topic.

5                     So you are asking my beliefs?

6             Q.     Well, you understand that Purdue is a  
7     defendant in this case, correct?

8             A.     Yes.

9             Q.     Okay. So I'm going to ask you again, you  
10    stated that -- that some of the topics of that  
11    roundtable were off topic for what you understood was  
12    going to happen that day, is that fair?

13            A.     Correct.

14            MS. HIBBERT: Objection; form.

15    BY MS. DICKINSON:

16            Q.     And did you feel like those topics that  
17    were off topics were kind of part of a sales pitch?

18            MS. HIBBERT: Objection to form.

19            MR. HADAGHIAN: Purdue joins the objection.

20    BY THE WITNESS:

21            A.     I -- I would actually not characterize it  
22    in that way, no, ma'am.

23    BY MS. DICKINSON:

24            Q.     How would you characterize it?

1 MS. HIBBERT: Objection to form.

2 MR. HADAGHIAN: Counsel for Purdue joins the  
3 objection.

4 BY THE WITNESS:

5 A. It was more about, What are you experts on  
6 addiction, because you are not pain experts, we get  
7 advice from them in other ad boards, what do you  
8 experts on addiction think of this material we are  
9 sharing with you, just react to it. So i -- I did not  
10 see it as a sales pitch.

11 BY MS. DICKINSON:

12 Q. Okay. Did -- did the group on the  
13 advisory board give their opinions and reactions to  
14 people at Purdue?

15 MS. HIBBERT: Objection to form.

16 MR. HADAGHIAN: Counsel for Purdue joins the  
17 objection.

18 BY THE WITNESS:

19 A. We did.

20 BY MS. DICKINSON:

21 Q. Okay. Do you know -- did -- did the group  
22 make any recommendations to Purdue of things they  
23 should do differently or the same?

24 MS. HIBBERT: Objection to form.

1 MR. HADAGHIAN: Counsel for Purdue joins the  
2 objection.

3 BY THE WITNESS:

4 A. We do what we are asked to do, yes.

5 BY MS. DICKINSON:

6 Q. Okay. And do you know if any of those  
7 recommendations were followed by Purdue?

8 MS. HIBBERT: Objection to form. It calls for  
9 speculation.

10 BY THE WITNESS:

11 A. I do not know.

12 MS. HADAGHIAN: Counsel for Purdue joins the  
13 objection.

14 BY MS. DICKINSON:

15 Q. Which colleagues in the field of addiction  
16 medicine also were sitting on the Purdue advisory  
17 board that you were sitting on, other than I think you  
18 mentioned -- I'm sorry, the gentlemen you mentioned, I  
19 can't remember his name?

20 A. His name is Gastfriend and --

21 Q. Okay.

22 A. -- and what I've already testified is I  
23 don't remember any other specific people.

24 Q. Okay.

1           A.       There -- there were certainly long time  
2 friends and acquaintances there, but I don't remember  
3 who was in that room that day.

4           Q.       Okay. You said you had a written  
5 agreement with Purdue.

6                   What was the compensation under that  
7 written agreement?

8           A.       It was a daily rate.

9           Q.       And do you know how much that was?

10          A.       Again, because we are getting closer to  
11 the current days, I think it was higher than the  
12 others. I think it was probably [REDACTED]

13          Q.       Okay. And were you paid for the day that  
14 you spent in October of 2016?

15          A.       Yes.

16          Q.       Okay. And with respect to traveling to  
17 Purdue's corporate headquarters, did Purdue pay for  
18 the travel?

19          A.       Yes.

20          Q.       Did Purdue pay for your meals during that  
21 time that you were -- spent traveling to that meeting?

22          A.       Yes.

23          Q.       Okay. Aside from that day, did you do any  
24 other work for Purdue under the agreement you signed



1 to be on their advisory board?

2 A. Yes.

3 Q. Okay. What other work did you do?

4 A. I joined in conference calls that were  
5 follow-up to the face-to-face meeting.

6 Q. Okay. How many conference calls in the  
7 months that you served on the advisory board did you  
8 participate in?

9 A. My memory is that there were two that I  
10 participated in.

11 Q. Do you know how long those were in length?

12 A. An hour or less.

13 Q. Okay. And were you paid for your time on  
14 those conference calls by Purdue?

15 A. I do not think I was.

16 Q. Did you participate in any written  
17 communication or e-mail communication with folks at  
18 Purdue pursuant to the agreement that you had between  
19 October 2016 and December 2016?

20 MS. HIBBERT: Objection to form.

21 BY THE WITNESS:

22 A. I believe I did.

23 BY MS. DICKINSON:

24 Q. Okay. Who were you communicating with?

1           A.       The point person who the Purdue hierarchy  
2     assigned to this was the CMO, and so I believe there  
3     was e-mail exchange with him.

4           Q.       And who was the CMO?

5           A.       I have no idea.

6           Q.       Okay. What was the purpose of the e-mail  
7     exchange with the CMO following the meeting in October  
8     of 2016?

9           MS. HIBBERT: Objection to form.

10          MS. HADAGHIAN: Purdue joins the objection.

11     BY THE WITNESS:

12          A.       Yeah. I believe you previously asked me  
13     did we provide any ideas to them. And the conference  
14     call, I think the first one was: This is the list of  
15     what we heard you say. Did we hear correctly? We  
16     just want to know if this list is an accurate list.  
17     And then another call was an update on what might  
18     happen regarding any implementation, and that was it.

19          Q.       What was being discussed to be  
20     implemented?

21          MS. HIBBERT: Objection to form.

22     BY THE WITNESS:

23          A.       That's -- I think that's definitely --

24          MS. HADAGHIAN: Purdue --

1 BY THE WITNESS:

2 A. That's --

3 MS. HADAGHIAN: Purdue joins the objection.

4 I'm sorry for interrupting, Dr. Miller.

5 THE WITNESS: No, that's quite all right.

6 BY THE WITNESS:

7 A. But I was going to say that's -- that  
8 would definitely be covered by the confidentiality  
9 agreement.

10 MS. DICKINSON: Counsel, are you taking the  
11 position that he can't answer these questions because  
12 I -- I think documents have actually been produced  
13 about his participation in the advisory board and  
14 e-mails -- the e-mail exchanges have been produced.

15 Are you taking the position he can't  
16 answer these questions? I think any confidentiality  
17 has probably been waived by the production. If you  
18 want to mark the transcript confidential, I  
19 understand, maybe you have a position there, but the  
20 questions about it, I'm not sure you can instruct him  
21 not to answer if the documents have been produced in  
22 the case.

23 MS. HIBBERT: I don't know what Purdue's  
24 position is on this, but my position as being here

1 with Dr. Miller here today, I've not instructed him, I  
2 don't think, not to answer specific questions as to  
3 this, but with regard to what Dr. Miller feels  
4 comfortable answering pursuant to his confidentiality  
5 agreement, I can't control, he is the only person that  
6 knows about that, and the -- maybe counsel for Purdue,  
7 too. I -- I won't also advise him to answer questions  
8 pertaining to matters that may or may not have been  
9 put into the record into this case. I haven't seen  
10 those documents. I haven't shown those document --  
11 documents to Dr. Miller. So if he doesn't feel  
12 comfortable providing responses because he believes  
13 the responses are covered pursuant to his  
14 confidentiality agreement, that's a decision that  
15 Dr. Miller has to make, but I am not instructing him  
16 not to answer based on the -- his own confidentiality  
17 agreement.

18 Counsel for Purdue, I don't know if you  
19 have any other comment on that, but...

20 MS. HADAGHIAN: Purdue's position is consistent  
21 with what counsel for Dr. Miller has stated.

22 BY THE WITNESS:

23 A. And -- and my answer is I'm trying to make  
24 them general. I think they are not a violation of the

1 confidentiality agreement I signed. There was an ad  
2 board. It wasn't about a product. It was general,  
3 and this is why addiction experts were brought in.  
4 Were we asked to provide ideas, yes. Did they write  
5 them down, yes. Do I know if they implemented them,  
6 no. And specific advice we gave then, that's what  
7 they paid for in confidence and that would be  
8 propriety. So that's the way I'm dealing with this --  
9 BY MS. DICKINSON:

10 Q. Okay.

11 A. -- line of questions.

12 Q. Fair.

13 Do you believe that written down and  
14 summarized in these either e-mail exchanges or in some  
15 written form following the first meeting were the  
16 ideas that were discussed? You don't have to tell me  
17 what was in the written form.

18 MS. HIBBERT: Objection to form.

19 MS. HADAGHIAN: Purdue objects to form.

20 BY MS. DICKINSON:

21 Q. Go ahead.

22 A. I would think so.

23 Q. Okay. Did you see documents that were  
24 summarizing the discussion from the October meeting?

1 MS. HIBBERT: Objection to form.

2 MS. HADAGHIAN: Purdue joins the objection.

3 BY THE WITNESS:

4 A. I'm not trying to be splitting hairs, but  
5 I think "related to" would be a better term than  
6 "summarized" because I don't think it was a -- an  
7 encapsulation, but it was related to the discussions  
8 we had, yes.

9 BY MS. DICKINSON:

10 Q. Okay. Were there minutes from the  
11 October meeting that you ever saw?

12 A. No.

13 Q. Okay. Were there written documents that  
14 discussed some of the ideas that were discussed at the  
15 October meeting that you saw?

16 MS. HIBBERT: Objection --

17 MS. HADAGHIAN: Purdue objects to form. And I  
18 apologize if I interrupted.

19 MS. HIBBERT: That's okay. I join the  
20 objection.

21 BY THE WITNESS:

22 A. Not wanting to make a misstep in my  
23 answer, yes, there were e-mails that would have  
24 content. I believe that, you know, that e-mails can

1 have more informality than form -- than final  
2 documents. I don't know that any of the e-mails  
3 represented documents. They may list ideas, points or  
4 concepts. How much that ever became part of a  
5 document, I have no idea.

6 Do I ever recall getting an e-mail  
7 attachment of a Purdue synopsis or anything like that,  
8 no. I just recall getting an e-mail -- getting  
9 e-mails where, Ladies and gentlemen, we think this is  
10 what you said, does this reflect that, and any further  
11 elaboration you have on the ideas that we brainstormed  
12 about. I think that's about as far as it goes.

13 Q. Okay. Your CV lists the relationship for  
14 Purdue ending in December 2016. How did the  
15 relationship end?

16 MS. HIBBERT: Objection to form.

17 MS. HADAGHIAN: Purdue joins the objection.

18 THE WITNESS: Should I proceed with an answer?

19 MS. HIBBERT: Yes. To the extent that you can,  
20 yes.

21 BY THE WITNESS:

22 A. Yeah, no. It was interesting, I'll --  
23 I'll speak under oath that this is my opinion and my  
24 recollection -- not my opinion, my -- my -- my

1 attitude about all of this, we hoped Purdue was doing  
2 this in good faith. We thought there was a chance  
3 they were doing it in good faith. We had no idea what  
4 would happen as a result of this. We gave them some  
5 pretty good and provocative ideas.

6 After a relatively brief period of time,  
7 one of the comments made was, We want broad input on  
8 this. We're probably going to rotate the membership  
9 of this advisory board and maybe you'll be in it after  
10 January 1st and maybe you won't. And after this brief  
11 of an engagement, I found that curious. And basically  
12 by the time the calendar year 2016 ended, they said  
13 something not explicit but sort of in the ballpark of,  
14 Thank you. We don't need you anymore and you are not  
15 going to be involved anymore, and they -- and so,  
16 honestly, honestly, because I revise my CV from time  
17 to time, nothing happened after December '16, but it  
18 was open-ended and I called Ms. -- Ms. Barbarotta and  
19 I said, What would you say was the end date of this  
20 deal? And she said, December 16th. So that's what I  
21 put down. I probably entered that date a year or two  
22 later. So it was just sort of -- it just sort of  
23 evaporated.

24 BY MS. DICKINSON:



1 Q. After December of 2016, did you have any  
2 further contact with Purdue at any time?

3 A. I had further contact with --

4 MS. HADAGHIAN: Purdue objects to form.

5 THE WITNESS: I'm sorry, ma'am. Pardon me.

6 BY MS. DICKINSON:

7 Q. Go ahead.

8 MS. HADAGHIAN: I apologize. Please go ahead.

9 THE WITNESS: Yes.

10 BY THE WITNESS:

11 A. I had a few conversations with  
12 Ms. Barbarotta along the line of, Hey, what's going  
13 on, because at that time I still had it open, anything  
14 going on, you need me for anything, and her answer  
15 was, I hadn't heard anything from home office that  
16 anything is happening on this. So I touched base with  
17 her a couple of times to say, Is this an active deal  
18 and she said not for you at this time. And then  
19 eventually I came to understand that she found another  
20 professional opportunity.

21 BY MS. DICKINSON:

22 Q. How did you come to understand that?

23 A. She told me.

24 Q. Okay. When did you talk to her about when

1 she came to take another professional opportunity?

2 A. Whenever it happened. I don't -- I would  
3 say probably -- probably in '18.

4 Q. Did she tell you why she was leaving  
5 Purdue?

6 A. No.

7 Q. Why were you talking to her in 2018?

8 MS. HIBBERT: Objection to form.

9 MS. HADAGHIAN: Purdue objects to form.

10 BY MS. DICKINSON:

11 Q. Go ahead.

12 A. We were connected on LinkedIn and so I can  
13 speculate that I would have posted something on  
14 LinkedIn that she may have at one point said, Oh, good  
15 comment. Or that she put something on LinkedIn and I  
16 had said, Good comment. And then I think probably  
17 what happened was I saw that she had posted something  
18 on LinkedIn, you know how these things work.

19 Q. Uh-huh.

20 A. And she had a different title, different  
21 company. And I wrote and said, Hey, you are no longer  
22 at Purdue. And she goes, No. And that was it.

23 Q. Do you know where she went after Purdue?

24 A. No. It's in her LinkedIn. Go look -- go

1 look her up.

2 Q. Okay.

3 After the advisory committee and those two  
4 phone calls, I take it from your comments, but I want  
5 to make sure, that no one at Purdue ever reached out  
6 to you again for your opinions or to serve on a  
7 further advisory board, is that true?

8 A. Right. Except -- they did not reach out  
9 after things came to whatever end they came to at the  
10 end of 2016.

11 Q. Okay. Have you had at Pur -- have you had  
12 any interaction with anyone at Purdue about any  
13 addiction treatment drugs that they have either  
14 patented or are considering?

15 MS. HIBBERT: Objection to form.

16 MS. HADAGHIAN: Purdue joins the objection.

17 BY THE WITNESS:

18 A. No.

19 BY MS. DICKINSON:

20 Q. Okay. You -- let's go to the last  
21 pharmaceutical company that you listed on -- under  
22 Consulting Positions that you worked for.

23 US WorldMeds. What is US WorldMeds?

24 A. It's a pharmaceutical company in

1     Louisville, Kentucky that is marketing and  
2     distributing a medication for the treatment of opioid  
3     withdrawal. It's a non-opioid medication.

4           Q.     Okay. And your CV lists November 4, 2017  
5     as a date that you worked for US Meds and also a  
6     little bit later, September 2018 to present.

7                     Are those both accurate?

8           A.     They are accurate, but it might require  
9     some elaboration.

10          Q.     Yes, okay. So let's just take them in  
11     turn.

12                     The first one lists a Opioid Withdrawal  
13     Leaders Forum Advisory Group on November 24th, 2017.

14                     Have I read that correctly?

15          A.     Yes, ma'am.

16          MS. HIBBERT: I'll object to form. That's not  
17     the date it says, but...

18     BY MS. DICKINSON:

19          Q.     November 4th, 2017.

20          MS. HIBBERT: You said 24th, but...

21          MS. DICKINSON: Oh, I'm sorry.

22          MS. HIBBERT: Just so the record is clear.

23     BY MS. DICKINSON:

24          Q.     Doctor, let's read it again. This -- part

1 of your CV lists a withdrawal -- Opioid Withdrawal  
2 Leaders Forum Advisory Group on November 4th of 2017.

3 Have I read that correctly?

4 A. Yes, ma'am.

5 Q. Okay. And were you hired by US WorldMeds  
6 pharmaceutical company to do some work with respect to  
7 their Opioid Withdrawal Leaders Forum?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. My recollection is that a third party  
11 found the participants and then all of the payments  
12 were through US WorldMeds.

13 BY MS. DICKINSON:

14 Q. Okay. Who is the third party?

15 A. I'm drawing a blank.

16 Q. Okay. Do you know when you were first  
17 contacted by -- by anyone regarding US WorldMeds?

18 A. I would guess it was within 60 days of  
19 that face-to-face meeting in November.

20 Q. Okay. 60 days prior?

21 A. Yes, ma'am.

22 Q. What -- what were the service -- were you  
23 hired to perform services on an advisory board for  
24 US WorldMeds?

1 MS. HIBBERT: Objection to form.

2 BY THE WITNESS:

3 A. No.

4 BY MS. DICKINSON:

5 Q. Okay. What were the services that you  
6 performed for US WorldMeds that are listed in this  
7 first entry?

8 A. It was interesting because it was as if it  
9 were an advisory board but it was 85 people. So  
10 because of the scope, you couldn't do it like an ad  
11 board and it was a one-and-done deal. So this was  
12 physicians of a variety of specialties, mostly  
13 addiction medicine. I can't remember who else would  
14 have been there. Maybe some pain medicine docs, but  
15 at any rate, we were in breakout groups and we did the  
16 sort of things that an ad board would do --

17 Q. Uh-huh.

18 A. -- in one day to advise them about their  
19 product. And there was follow-up e-mail with them  
20 regarding documents and it had to do specifically with  
21 some real formal documents, patient education  
22 documents, again, required by the FDA and how you  
23 would phrase them.

24 Also, the slide deck. So, if you

1 understand how the pharmaceutical industry works,  
2 speakers bureau PowerPoints are developed by a company  
3 but they cannot be used unless approved by the FDA,  
4 and then you cannot deviate from them if you are a  
5 speakers bureau presenter.

6           So we gave a lot of very direct hands-on  
7 input to them about what their slide deck might look  
8 like before they presented it to the DEA for final  
9 approval and -- and actual use in marketing. So we  
10 really contributed quite a bit. And I don't think we  
11 were paid beyond the one-time meeting, but it was a  
12 fairly handsome payment. I think it was [REDACTED] for  
13 the day, if I recall correctly, but so -- so what  
14 happened with that is that they had this thing that  
15 was way too many individuals to be a functioning ad  
16 board but did similar functions. It was one and done  
17 with some follow-up and then they got their FDA  
18 approval and they brought their drug to market and  
19 then they built their cadre of speakers, okay. And  
20 then the same third-party company invited me to go to  
21 the speakers bureau training. So that was in  
22 September of '18, okay.

23           Q.     Um-hum.

24           A.     I think the first speakers bureau

1 presentations were probably given in around  
2 November or December for that product. And the  
3 elaboration that I was going to give is that I began  
4 working for the University of Wisconsin on October 1st  
5 as a faculty member and I had a strong hunch that  
6 there would be prohibitions against being on speakers  
7 bureaus for pharma companies by the medical school or  
8 the UW Medical Foundation. And I will -- again, I'm  
9 elaborating here. I asked for clearance regarding  
10 conflict of interest and permission because I have my  
11 relationship with Ammon Labs and I had this open  
12 relationship with this one pharma company and I had  
13 the potential to be on speakers bureaus for other  
14 companies.

15           Actually, Alkermes is listed here  
16 somewhere. I'd be happy to talk about Alkermes. It's  
17 not listed here because it never went anywhere, but  
18 I'll be happy to talk about Alkermes which makes a  
19 non-opioid blocker, a product called Vivitrol.

20           But that having been said, when I began at  
21 the university I stopped doing all form of work. I  
22 told different pharma companies I'm on hold until I  
23 get a legal opinion. It took me months to get the  
24 opinion that I thought I would get, which is, Can't do



1     it. And on my disclosure slides and all of my  
2     PowerPoints, if you were to ever subpoena all of my  
3     PowerPoints, you would see that my disclosure listed  
4     several pharmaceutical companies for a while until  
5     the -- I got my legal opinion, I have taken that off  
6     of my disclosure slide because I can't do it.

7                     So -- so I never gave a speakers bureau  
8     presentation for US WorldMeds, I never gave one for  
9     Alkermes, I did give one for Bunavail, that was before  
10    I worked at the university, and so that gave you some  
11    information.

12            Q.     Okay.

13            MS. HIBBERT: Counsel, we've been going for  
14    about an hour now, can we take a comfort break?

15            MS. DICKINSON: Sure. Let's do five quick  
16    minutes.

17            THE WITNESS: Good timing.

18            THE VIDEOGRAPHER: We are off the record at  
19    2:26 p.m.

20                     (WHEREUPON, a recess was had  
21                     from 2:26 to 2:35 p.m.)

22            THE VIDEOGRAPHER: We are back on the record at  
23    2:35 p.m.

24    BY MS. DICKINSON:

1 Q. Dr. Miller, we are back on the record  
2 after a short break.

3 We were just discussing the last  
4 pharmaceutical company that you worked for that's on  
5 your CV, US WorldMeds.

6 Do you recall that?

7 A. Yes, ma'am.

8 Q. Okay. We had briefly started talking  
9 about the first entry for US WorldMeds which was an  
10 advisory group.

11 Is -- am I correct that in that advisory  
12 group one of the things you were advising on was the  
13 slide deck for later speakers bureaus for a drug for  
14 US WorldMeds?

15 A. Yes.

16 MS. HIBBERT: Objection to form.

17 THE WITNESS: Oh, sorry.

18 BY MS. DICKINSON:

19 Q. Okay. And what was the drug?

20 MS. HIBBERT: Objection to form.

21 BY THE WITNESS:

22 A. The tradename is L-u-c-e-m-y-r-a.

23 BY MS. DICKINSON:

24 Q. And from your experience with

1 pharmaceutical company speakers bureaus, I think you  
2 testified, but I just want to make sure, that the way  
3 that the speakers bureau systems works is that  
4 speakers are handed a slide deck drafted by the  
5 pharmaceutical company, is that true?

6 A. That's the way I understand it to be.

7 Q. In your experience, are speakers that are  
8 paid speakers in a speakers bureau for pharmaceutical  
9 companies allowed to make revisions to that slide  
10 deck?

11 MS. HIBBERT: Objection to form, calls for  
12 speculation.

13 BY THE WITNESS:

14 A. Speakers are instructed that they should  
15 not go off script, but if they want to put in their  
16 own slides, they have to identify them as their own  
17 slides and not the company's slides.

18 BY MS. DICKINSON:

19 Q. And the script, the original script comes  
20 from whichever pharmaceutical company is sponsoring  
21 the speakers, correct?

22 A. Yes.

23 MS. HIBBERT: Objection to form.

24 BY MS. DICKINSON:

1 Q. Okay.

2 MS. HIBBERT: Dr. Miller --

3 THE WITNESS: Sorry.

4 MS. HIBBERT: -- give me a pause, please.

5 THE WITNESS: Sorry.

6 BY MS. DICKINSON:

7 Q. Which pharmaceutical companies have you  
8 served on the speakers bureau for, could you give me a  
9 list of those?

10 A. BDSI and US WorldMeds.

11 Q. You mentioned Ammon Labs.

12 Did you serve on the speakers bureau for  
13 Ammon Labs?

14 A. That's a different deal, but, in fact,  
15 yes. They -- they don't really have it well formed,  
16 but I've given talks on their behalf and been  
17 compensated for them.

18 Q. Okay. You mentioned an additional company  
19 that makes Vivitrol, I believe.

20 What is the name of that company?

21 A. A-l-k-e-r-m-e-s.

22 Q. Have you ever served on the speakers  
23 bureau for Alkermes?

24 A. No.

1 Q. Have you ever done any work for Alkermes?

2 A. Yes.

3 Q. What kind?

4 A. I have been trained to be on the speakers  
5 bureau twice. Once I was compensated for that time  
6 spent in training, then years later they revised the  
7 deck and you have to do updates, and I did not get  
8 compensated that time, but never did it get to the  
9 point that I got an appointment date to go give a  
10 talk.

11 Q. Okay. If I go through the list, BDSI,  
12 US WorldMeds, and Ammon Labs, you have been  
13 compensated as a paid speaker for those three  
14 companies, is that correct?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. That's not correct because I'm on the  
18 speakers bureau for US WorldMeds but haven't taken any  
19 engagements because I now work for an academic medical  
20 center employer that does not allow such  
21 relationships.

22 BY MS. DICKINSON:

23 Q. Okay. Fair.

24 I think my original question had been what

1 companies have you been on the speakers bureau for,  
2 and you listed BDSI and US WorldMeds, is that correct?

3 A. And, again, to clarify my answers, I'm on  
4 the list but haven't actualized it.

5 Q. That was going to be my next question.

6 Did you ever give paid speeches for either  
7 BDSI or US WorldMeds?

8 A. Only BDSI.

9 Q. Okay. How many did you give for BDSI?

10 A. I believe just one.

11 Q. And do you know what you were compensated  
12 for that?

13 A. I am pretty sure it was between [REDACTED]  
14 [REDACTED]

15 Q. Okay. And then you mentioned you were  
16 compensated for speeches from Am -- Ammon Labs, is  
17 that correct?

18 A. Correct.

19 Q. How many speeches?

20 A. I have given one.

21 Q. Okay. About what product?

22 A. About their drug testing services.

23 Q. Okay. And then you testified that you had  
24 been trained twice for another pharmaceutical company,

1 Alkermes, but that you haven't yet given a paid speech  
2 for Alkermes, is that correct?

3 A. Yes. And to -- I need to retract --  
4 revise my answer to the previous question.

5 I have not given any sort of promotional  
6 speeches for Ammon about their drug testing services  
7 per se. I have given goodwill presentations at their  
8 request to audiences they have selected about  
9 addiction and using medications to treat addiction.  
10 There could be a few slides in there about the fact  
11 that you should be doing drug testing when you are  
12 treating patients, but it really was general education  
13 about addiction treatment to clinical audiences who  
14 might potentially become customers of Ammon. They  
15 were not -- they were very, very indirectly  
16 promotional for Ammon, for Ammon's drug testing  
17 services which is what their business line is.

18 Q. Have we talked about all of the  
19 pharmaceutical companies for which you've given paid  
20 speeches in the last few minutes?

21 MS. HIBBERT: Objection to form.

22 BY THE WITNESS:

23 A. I believe we have.

24 BY MS. DICKINSON:

1 Q. Okay. And you mentioned that in  
2 October you went back to your employment with the  
3 University of Wisconsin, is that correct?

4 A. Yes, ma'am.

5 Q. And you testified that University of  
6 Wisconsin had a prohibition on taking money from  
7 pharmaceutical companies, is that correct?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. Some would characterize it as that.  
11 It's -- it's a -- it would have to be much more  
12 specifically stated, but physicians cannot be on  
13 speakers bureaus, I can tell you that as a very  
14 specific.

15 BY MS. DICKINSON:

16 Q. Okay. What is the rule at University of  
17 Wisconsin about taking any sort of compensation from  
18 pharmaceutical companies?

19 MS. HIBBERT: Objection to form.

20 BY THE WITNESS:

21 A. I can only speak to it in general.

22 BY MS. DICKINSON:

23 Q. Okay. What is the general rule?

24 A. If you are getting any money to support



1     your research, you have to disclose that big time. So  
2     that would be considered industry-supported research.  
3     You cannot be on ad boards for pharmaceuticals and you  
4     cannot be on speakers bureaus for pharmaceuticals.

5           Q.     Why is -- why is it that you cannot be on  
6     ad boards or speakers bureaus while you are working at  
7     the University of Wisconsin?

8           MS. HIBBERT:   Objection to form.

9     BY THE WITNESS:

10          A.     I think you should ask them.

11    BY MS. DICKINSON:

12          Q.     Do you know?

13          MS. HIBBERT:   Objection to form.

14    BY THE WITNESS:

15          A.     I don't know. No, I don't know. I --  
16    I -- I -- I have -- I -- that's -- that's their deal.

17    BY MS. DICKINSON:

18          Q.     What is your understanding of why you  
19     can't be on speakers boards or ad boards while you are  
20     working for the University of Wisconsin?

21          MS. HIBBERT:   Objection to form.

22    BY THE WITNESS:

23          A.     The general sense is that physicians'  
24     prescribing habits are influenced by corporate

1 relationships.

2 BY MS. DICKINSON:

3 Q. Okay. You mention on Page 3 of your  
4 report that -- and when I'm talking about your report,  
5 I'm talking about the report in Exhibit 2, if you want  
6 to turn there you certainly can. I'm just going to  
7 ask you a question about Paragraph 7 of your report.

8 Paragraph 7, I'm going to read just the  
9 second sentence of the Paragraph 7.

10 "I was the first" --

11 A. Just one second. Can I put this away?

12 Q. Oh, I'm sorry.

13 A. Can I put this away?

14 Q. Of course you -- I wouldn't put it away,  
15 to be honest.

16 A. Well --

17 Q. We are not quite done. But -- but, yes,  
18 you can pick up Exhibit 2.

19 A. Yes, No. 7, yes, ma'am.

20 Q. Okay. Paragraph 7 in the sent -- the last  
21 sentence states:

22 "I was the first physician in Madison,  
23 Wisconsin to prescribe this medication and I am  
24 considered a key opinion leader in medication-assisted

1 treatment, MAT, of addiction by all leading  
2 manufacturers of FDA-approved medications to treat  
3 addiction involving opioid use."

4 Did I read that correctly?

5 A. Yes, ma'am.

6 Q. When -- when it was referring to this  
7 medication, is that Buprenorphine?

8 A. Yes, ma'am.

9 Q. Okay. So you can put the report aside.  
10 When you were referring to working as a  
11 key opinion leader for all of the major manufacturers  
12 of Buprenorphine, what is a key opinion leader?

13 MS. HIBBERT: Objection to form.

14 BY THE WITNESS:

15 A. In my life I have read a definition,  
16 because I think it exists. My understanding of the  
17 concept is that it is an experienced physician whose  
18 opinions are valued by their colleagues.

19 BY MS. DICKINSON:

20 Q. Okay. Have you ever served as a paid key  
21 opinion leader for any pharmaceutical company?

22 A. Absolutely nothing beyond what we have  
23 already discussed.

24 Q. Okay. You stated that you serve as a key

1 opinion leader for the man -- for the manufacturers of  
2 Buprenorphine.

3 Which manufacturers of Buprenorphine do  
4 you serve as a key opinion leader for?

5 MS. HIBBERT: Objection to form,  
6 mischaracterizes the statement made in this report and  
7 his deposition testimony.

8 BY MS. DICKINSON:

9 Q. Doctor, let's just go back, if we have to,  
10 to Paragraph 7. It just says:

11 "I am considered a key opinion leader in  
12 medication-assisted treatment of addiction by all  
13 leading manufacturers of FDA-approved medications to  
14 treat addiction involving opioid use."

15 Have I read that correctly?

16 A. Yes, ma'am.

17 Q. Okay. What manufacturers of FDA-approved  
18 medications to treat addiction involving opioid use  
19 are you referring to there?

20 A. Again, I -- I completely agree with the  
21 objection by counsel. That statement says my  
22 understanding is that they have a consideration of me,  
23 an opinion of me, but I don't have a relationship with  
24 those companies and I'm not compensated to offer key

1     opinions. I'm considered to have an opinion that  
2     carries weights with my colleagues because of my  
3     experience and my leadership role in addiction  
4     professional organizations. But when I -- when I say  
5     all the manufacturers of addiction -- FDA-approved  
6     medications, I'll have to give you the list of the  
7     medications and I'll do that. And it's a -- it's a  
8     shortlist.

9             Q.     Okay.

10            A.     Okay.

11                   Injectable naltrexone. The product is  
12     Vivitrol and the manufacturer is Alkermes and we have  
13     the spellings of that already.

14                   Buprenorphine, the first medication was  
15     trade named Suboxone. It is no longer made. The  
16     original company was called Reckitt Benkiser,  
17     R-e-c-k-i-t-t, second word B-e-n-k-i-s-e-r, a German  
18     manufacturer. Reckitt has got two T's, I think. They  
19     changed their name to Indivior, I-n-d-i-v-i-o-r.

20                   The second product to market was Zubsolv,  
21     it is capital S -- capital Z-u-b, capital S-o-l-v.  
22     I'm not sure if they've kept the S capital since. The  
23     corporation is called Orexo, O-r-e-x-o.

24                   The next product was the Bunavail product

1     made by BDSI which we've talked about.

2                     The next product was the Probuphine  
3     injection made by Braeburn.

4                     The next product is Sublocade,  
5     S-u-b-l-o-c-a-d-e, made by Indivior.

6                     There was a branded product called Revia,  
7     R-e-v-i-a, that was oral naltrexone that's been off  
8     patent for years. I don't remember who the  
9     manufacturer was.

10                    Now oral naltrexone is only by a number of  
11     generic houses. So when I made my comment about being  
12     considered a key opinion leader, because I was the  
13     founding president of this state's chapter of ASAM and  
14     had been on the board of directors of the Wisconsin  
15     Society of Addiction Medicine since its founding over  
16     25 years ago, and because I've been President of the  
17     American Society of Addictive Medicine, people  
18     consider that my opinion carries weight. And so the  
19     manufacturers know who the leaders of the professional  
20     societies are and I meant nothing beyond that and I  
21     definitely meant nothing fiduciary other than things  
22     I've testified to otherwise.

23                    Q.     Okay. Are you aware that the  
24     pharmaceutical company Actavis makes a Buprenorphine

1 product?

2 A. I am not aware of that and I also don't  
3 know if that indication is for addiction or for pain.

4 Q. I'm just asking if you are aware.

5 A. Yeah.

6 Q. Are you aware that the company Mylan makes  
7 a Buprenorphine product?

8 A. I'm not aware.

9 Q. Are you aware that the company Rhodes  
10 makes a Buprenorphine product?

11 A. It sounds like generic houses. I have --  
12 I have -- I have never heard the name Rhodes.

13 Q. Okay. Are you a -- you are not aware that  
14 Rhodes is connected to Purdue Pharma in any way?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. I'm definitely not aware.

18 MS. HADAGHIAN: Purdue joins.

19 BY MS. DICKINSON:

20 Q. Okay. Are you aware of -- that the  
21 company Mallinckrodt sells a Buprenorphine product?

22 A. I am not so aware.

23 Q. Are you aware that the company Teva sells  
24 a Buprenorphine product?

1           A.       I am not so aware. I'm -- I'm aware that  
2       companies make Buprenorphine for pain and some of  
3       those companies that you listed make pain meds and  
4       they may even be companies that are defendants in this  
5       case, but pain is not my specialty, so I don't keep  
6       track of the products.

7           Q.       Okay.

8           A.       I don't remember who makes Bu -- Butrans  
9       even. That's the best known. I don't know who makes  
10      it.

11          Q.       Okay. If you would turn to Exhibit, let's  
12      go to 3, your CV, if you would again.

13          A.       I'm ready.

14          Q.       Okay. I'm going to try to go through some  
15      of this in the quickest way possible. I will promise  
16      you I will not go through every entry. I'm going to  
17      try to just ask you some general questions about  
18      groupings on your CV and maybe it can go a little  
19      faster, I hope.

20                    So at the very top of Page 1 of Exhibit 3,  
21      you have a -- a grouping of entries that starts with  
22      "Clinical Instructor at University of Wisconsin."

23                    Do you see that? It's probably the second  
24      full paragraph.



1 MS. HIBBERT: He is looking at Page 1 of your --

2 MS. DICKINSON: Page 1.

3 BY THE WITNESS:

4 A. I'm going to say something which will  
5 disappoint my counsel.

6 BY MS. DICKINSON:

7 Q. Okay.

8 A. On Page -- on Page 8 at the top of  
9 Hospital Affiliations --

10 Q. Okay.

11 A. -- I've testified to this whole story  
12 about honorary medical staff.

13 Q. Yes.

14 A. Of Meriter.

15 Q. Yes.

16 A. This does not reflect that. There is a --

17 Q. Understood.

18 A. There is a newer addition of that page.

19 Q. Okay.

20 A. Somewhere that somebody is going to want  
21 to make an exhibit in this litigation.

22 Q. Okay.

23 A. I'll have to generate that for everybody  
24 and get that to you.

1                   And so the most current version of my CV  
2   is a version that -- that lists that change as of  
3   June 1st which was three days ago.

4           Q.     Okay.

5           A.     So I just want -- I -- I just noticed that  
6   and I wanted to be honest with you about that.

7           Q.     I appreciate it. And if at any time when  
8   we are going through your CV, it's -- it's not a  
9   perfection test. If you notice another time and there  
10   is just an inaccuracy, just let me know. Okay?

11          A.     Thank you, ma'am. What page are you on,  
12   please?

13          Q.     Page 1.

14          A.     Yes.

15          Q.     Right at the top, the first -- the  
16   grouping of entries --

17          A.     Yes.

18          Q.     -- that starts with "Clinical Instructor"?

19          A.     Yes, ma'am.

20          Q.     Does that grouping of entries summarize  
21   your current employment?

22          A.     Those four lines do, yes, ma'am.

23          Q.     Okay. Can you tell me, please, can you --  
24   actually, can you give me a breakdown if -- if

1 100 percent of your time is spent between these four  
2 what percent is spent on which employment?

3 A. I'm happy to.

4 Line 1 --

5 MS. HIBBERT: Objection to form.

6 BY THE WITNESS:

7 A. Oh, I'm sorry. Oh, my goodness.

8 Q. You are good. Go ahead.

9 A. Not being a lawyer, I don't know what's  
10 objectionable.

11 Q. No, you're all right.

12 MS. HIBBERT: You are not required to,  
13 Dr. Miller. You are required to give me a -- a beat  
14 to put the objection on the record.

15 THE WITNESS: I am and I apologize.

16 BY THE WITNESS:

17 A. Line 1, 50 percent.

18 BY MS. DICKINSON:

19 Q. Okay.

20 A. Line 2, 1 percent. Line 3, 30 percent.

21 Line 4, 6 percent. And the remaining percentage is my  
22 consultation business which is not really employment.

23 It is just what I do. All of my consultation  
24 activities would be beyond those hours.

1 Q. Of your -- when you say your "consultation  
2 activities," is that your litigation consulting?

3 A. All.

4 Q. Okay. And what percentage of your work  
5 time does your consultation activities take up?

6 A. On my daily schedule it would be  
7 12 percent max, but lately I've been working overtime.

8 Q. In the last year, if by my math you were  
9 up to about 60 percent of your work time, has  
10 40 percent been spent on consulting activities?

11 MS. HIBBERT: I'll object to your math.

12 BY MS. DICKINSON:

13 Q. Okay. Go ahead and answer.

14 A. I will too.

15 Q. All right. So -- so what is the math, how  
16 much of the last year have your activities been spent  
17 on consulting?

18 A. I would say in the whole year, and, again,  
19 going over 40 hours a week, I would say that we are  
20 20 percent consulting.

21 Q. How -- how much money have you been paid  
22 to date in this case?

23 A. In this case?

24 Q. Um-hum.

1           A.     I think I've received about \$22,000.

2 Q. Do you have any outstanding invoices that  
3 are not included in that \$22,000?

4                    A.        Yes.

5 Q. Do you know how much are in those  
6 outstanding invoices?

7            A.        I would say about 21.

8 Q. So the rough total of services built --  
9 billed to date in this case is roughly \$43,000?

10           A.     Yes, ma'am.

11 Q. What was your annual income in 2018?

12 MS. HIBBERT: Objection to form.

13 BY THE WITNESS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**[REDACTED]**

\_\_\_\_\_

\_\_\_\_\_

**██████████ ██████████ ██████████**

\_\_\_\_\_

\_\_\_\_\_

[illegible]

\_\_\_\_\_

[illegible]

1	1	1	1
2	2	2	2
3	3	3	3
4	4	4	4
5	5	5	5
6	6	6	6
7	7	7	7
8	8	8	8
9	9	9	9
10	10	10	10
11	11	11	11
12	12	12	12
13	13	13	13
14	14	14	14
15	15	15	15
16	16	16	16
17	17	17	17
18	18	18	18
19	19	19	19
20	20	20	20
21	21	21	21
22	22	22	22
23	23	23	23
24	24	24	24
25	25	25	25
26	26	26	26
27	27	27	27
28	28	28	28
29	29	29	29
30	30	30	30
31	31	31	31
32	32	32	32
33	33	33	33
34	34	34	34
35	35	35	35
36	36	36	36
37	37	37	37
38	38	38	38
39	39	39	39
40	40	40	40
41	41	41	41
42	42	42	42
43	43	43	43
44	44	44	44
45	45	45	45
46	46	46	46
47	47	47	47
48	48	48	48
49	49	49	49
50	50	50	50
51	51	51	51
52	52	52	52
53	53	53	53
54	54	54	54
55	55	55	55
56	56	56	56
57	57	57	57
58	58	58	58
59	59	59	59
60	60	60	60
61	61	61	61
62	62	62	62
63	63	63	63
64	64	64	64
65	65	65	65
66	66	66	66
67	67	67	67
68	68	68	68
69	69	69	69
70	70	70	70
71	71	71	71
72	72	72	72
73	73	73	73
74	74	74	74
75	75	75	75
76	76	76	76
77	77	77	77
78	78	78	78
79	79	79	79
80	80	80	80
81	81	81	81
82	82	82	82
83	83	83	83
84	84	84	84
85	85	85	85
86	86	86	86
87	87	87	87
88	88	88	88
89	89	89	89
90	90	90	90
91	91	91	91
92	92	92	92
93	93	93	93
94	94	94	94
95	95	95	95
96	96	96	96
97	97	97	97
98	98	98	98
99	99	99	99
100	100	100	100





■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

6 MS. HIBBERT: Objection to form.

7 THE WITNESS: Sorry.

8 BY MS. DICKINSON:

9 Q. Correct?

10 A. Yes, ma'am.

11 Q. Okay. When did you stop working for  
12 Rogers?

13 A. June.

14 Q. I'm sorry. June of 2018?

15 A. Yes, ma'am.

16 Q. And did you resign or were you terminated?

17 A. I resigned.

18 Q. Why did you resign in June of 2018 from  
19 Rogers?

20 A. Multiple factors, but one of them is what  
21 we talked about many hours ago, the path toward  
22 retirement. And, quite honestly, leaving what I've  
23 referred to as a job for life at Meriter through 2010,  
24 leaving there to go to Rogers was part of the idea of

1     disengagement from something that I was intensely  
2     workaholicly engaged in. And so I've been disengaging  
3     from professional role gradually since 2010. And part  
4     of leaving full-time employment to do part-time things  
5     and build the consulting practice for the retirement  
6     years was getting out of those obligations. And so I  
7     left.

8           Q.     Has it been hard to disengage? It sounds  
9     like it.

10           MS. HIBBERT: Objection to form.

11     BY THE WITNESS:

12           A.     It -- it's been okay.

13     BY MS. DICKINSON:

14           Q.     Okay. Fair.

15                   Let's look at the same page, Page 1. You  
16     have a section called "National Activities."

17                   Do you see that?

18           A.     Yes.

19           Q.     Can you briefly tell me what you were  
20     doing in the first one of those listed activities on  
21     the Council on Science and Public Health, American  
22     Medical Association?

23           A.     Yes.

24           Q.     Okay. What, briefly, were you doing or

1 are you doing there?

2 A. Still doing it.

3 Q. Good.

4 A. I become chair of the council in a week.

5 Q. What are -- what generally are your duties  
6 as chair of the council?

7 A. The council assists the AMA house of  
8 delegates in developing the official policies of the  
9 AMA, specifically those policies related to science  
10 and public health.

11 Q. Okay. I'm sorry.

12 You also list below it a: "Chair  
13 Professional Technical Advisory Committee Hospital  
14 Accreditation Program, the Joint Commission, formerly  
15 JACO, in 1998."

16 Do you see that?

17 A. Yes, ma'am.

18 Q. What was that position?

19 A. That was a position where I was appointed  
20 to the PTAC to a seat that was jointly held or granted  
21 to three organizations: The National Association of  
22 Addiction Treatment Providers (NAATP), the National  
23 Association of Alcohol and Drug Abuse Counselors  
24 (NAADAC), and the American Society of Addiction

1     Medicine (ASAM). So of the 40-something seats on the  
2     Hospital Accreditation Program Advisory Committee, one  
3     seat was jointly held by these three organizations.  
4     And the other organizations would generally turn to  
5     the physician organization, ASAM, and say, give us a  
6     nominee.

7                     I was asked by the leadership of ASAM to  
8     serve on the Professional Technical Advisory  
9     Committee, which I did from '94 to '98. And the  
10    members of that advisory committee, all volunteers,  
11    selected a chair to preside over the meetings. And so  
12    my peers there picked me to be the chair.

13            Q.     Okay. When you served on that technical  
14    advisory committee, who else was serving on that  
15    committee?

16            A.     Representatives from professional  
17    societies, from hospitals. So it was physicians,  
18    nurses, psychologists, hospital administrators, people  
19    who were stakeholders in the process of accrediting  
20    hospitals.

21            Q.     And what did the committee do?

22            A.     We provided professional technical advice.

23            Q.     What does that mean?

24            A.     Well, that means the accreditation

1 programs, and at that time I think the Joint  
2 Commission had five or six, one for nursing homes, one  
3 for hospitals, one for outpatient clinics, one for  
4 health plans, for instance.

5           So these accreditation programs go to  
6 organizations and survey them to determine if they  
7 meet quality standards. So the Joint Commission is  
8 the best known entity to conduct surveys of hospitals  
9 to determine that they are providing quality care  
10 according to a million little dimensions that are  
11 codified in the standards manual. So the Joint  
12 Commission develops standards and then it develops  
13 survey procedures, then it executes surveys, and then  
14 it reports results.

15           Our committee was to provide advice to the  
16 Joint Commission on its standards primarily, its  
17 survey procedures to some extent, its reporting  
18 mechanisms. I think back around that era, public  
19 reporting of outcomes was just coming into the fore,  
20 and so being stakeholders, again, hospital  
21 administrators, members of hospital medical staffs,  
22 nurses, pharmacists, professional societies, it is a  
23 very diverse, very nice, very esteemed group, very  
24 exciting, we would get together and we would be

1 presented an agenda to react to, and back then the  
2 PTACs met either four to six times a year. I think  
3 they met less and less during the time and they've  
4 become less and less influential since 1998, but the  
5 PTACs were a big deal back in the '90s.

6 Q. Your experience as the chair of the -- can  
7 we call it the PTAC committee, is that fair?

8 A. The PTAC, yes.

9 Q. Okay. Was Joint Commission hospital  
10 accreditation important to the hospitals?

11 A. Oh, yes.

12 Q. Why?

13 A. It has to do with stature and prestige.  
14 You don't want to be unaccredited. So it's like a  
15 Good Housekeeping seal or a Consumer Reports seal.  
16 That's extremely important. But there was a bottom  
17 line consideration as well, and that is something that  
18 I will call "deemed status." And this was set up by  
19 the Federal Government.

20 The Centers for Medicare and Medicaid  
21 Services are the branch of the Federal Department of  
22 Health & Human Services that oversees the Medicare and  
23 Medicaid program and how they pay inpatient,  
24 outpatient, nursing home, healthcare providers for

1 healthcare services, okay.

2                   To be a hospital that receives Medicare  
3 payments, you have to be surveyed by CMS. The CMS  
4 gave deemed status to the Joint Commission years ago,  
5 and by that they mean if you have been surveyed by the  
6 Joint Commission, you are deemed to be surveyed by  
7 CMS. And so the Joint Commission surveys serve in  
8 lieu of a government survey to determine if you are  
9 eligible to receive Medicare services. Therefore, if  
10 you lose Joint Commission accreditation, you lose your  
11 ability to get paid by Medicare and Medicaid. You  
12 might imagine the impact that would have on a  
13 hospital.

14           Q.     It's a huge financial impact, correct?

15           MS. HIBBERT: Objection to form.

16   BY THE WITNESS:

17           A.     Exactly, that's the point I was trying to  
18 make.

19   BY MS. DICKINSON:

20           Q.     You made -- you actually made it very  
21 clear, in an area that is really complicated. I  
22 appreciate it. I used to defend hospitals years ago  
23 and I'm not sure I ever heard someone put it that  
24 succinctly.

1                   So, what relationship did this Joint  
2   Commission standards have to Joint Commission  
3   accreditation?

4           MS. HIBBERT:  Objection to the previous colloquy  
5   before the question.

6                   Go ahead.

7   BY THE WITNESS:

8           A.       The -- the surveyors go into facilities  
9   and survey regarding to what extent on probably a  
10   five-point grade, one, two, three, four, five, to what  
11   extent are the structures and processes of the  
12   provider organization adhering to the standards.  So  
13   that's the -- that's the checklist they use is the  
14   standards manual.  So what's in the manual matters.

15  BY MS. DICKINSON:

16           Q.       So essentially what's in the manual also  
17   matters to the hospital's bottom line, is that fair?

18           MS. HIBBERT:  Objection to form.

19  BY THE WITNESS:

20           A.       There is a circuitous dotted line, but,  
21   yes, Point A does go to Point Z at some point.

22  BY MS. DICKINSON:

23           Q.       The survey that you talked about that does  
24   matter to the bottom line is based essentially on a



1 checklist of are they meeting the standards, is that  
2 fair?

3 MS. HIBBERT: Objection to form. Also object to  
4 this line of questioning, getting pretty far afield  
5 from the scope of the opinions that Dr. Miller has  
6 offered in this case and supposedly the purpose of  
7 this deposition.

8 You can answer, Dr. Miller, if you can.

9 BY MS. DICKINSON:

10 Q. You can answer. Go ahead.

11 A. Your general characterization is accurate.

12 Q. Okay.

13 Can we refer to the JACO standards manual  
14 as the JACO standards? Do you understand what I'm  
15 talking about when I say that?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. I can give you a technical term.

19 MS. DICKINSON:

20 Q. Okay. That would be great.

21 A. The CAMH.

22 Q. What does CAMH stand for?

23 A. The Comprehensive Accreditation Manual for  
24 Hospitals. Again, each of the Joint Commission

1 accreditation programs has its own manual. There is a  
2 Comprehensive Accreditation Manual for Behavioral  
3 Healthcare, the CAMH is the Comprehensive  
4 Accreditation Manual for Hospitals.

5 Q. Okay. Are you familiar with the  
6 University of Wisconsin Pain and Policy Study Group?

7 A. I am.

8 MS. HIBBERT: Objection to form.

9 BY MS. DICKINSON:

10 Q. Okay.

11 THE WITNESS: Sorry.

12 MS. HIBBERT: If you give me a pause, please,  
13 Dr. Miller.

14 BY MS. DICKINSON:

15 Q. Who is that group?

16 A. I don't --

17 MS. HIBBERT: Objection to form.

18 Also, again, Dr. Miller is not being  
19 offered as a fact witness in this case. He has not  
20 been noticed as a fact witness. This is supposed to  
21 be an expert deposition pertaining to the opinions  
22 that Dr. Miller has offered in this case and outlined  
23 in his report marked as Exhibit No. 2. I'll allow  
24 this line to continue for a little bit longer, but,

1 again, I caution I think we are getting a little far  
2 afield from the expert deposition that's supposed to  
3 be taking place today.

4 MS. DICKINSON: Counsel, this is absolutely in  
5 the scope of questions that can be asked about his  
6 background, his experience in the field, and -- and  
7 you can instruct him not to answer if you want to, but  
8 we are going to call Special Master Cohen if you do  
9 because that's just a completely inappropriate  
10 objection.

11 BY MS. DICKINSON:

12 Q. So, Doctor, I'll just start again.

13 What -- what is the UW Pain and Policy  
14 Group?

15 MS. HIBBERT: Objection to form, lack of  
16 foundation.

17 BY THE WITNESS:

18 A. I don't know that it exists today.

19 BY MS. DICKINSON:

20 Q. Okay. What was it?

21 A. When I was aware of it, it was a group  
22 that tried to advise various entities or stakeholders  
23 on what policies they should have about the use of  
24 opioids in the management of pain.

1 Q. How long have you been familiar with that  
2 group?

3 MS. HIBBERT: Objection to form.

4 BY THE WITNESS:

5 A. I believe the early '90s.

6 BY MS. DICKINSON:

7 Q. Okay. Generally were -- did that group  
8 have a previous name? I think I read somewhere it was  
9 the Comprehensive Cancer Center or something like  
10 that?

11 MS. HIBBERT: Objection to form.

12 BY THE WITNESS:

13 A. Again, this is all sorts of facts that I'm  
14 trying to help you with with your questions, but the  
15 Carbone Comprehensive Cancer Center is largely a  
16 clinical and research entity. It is not a policy  
17 entity.

18 BY MS. DICKINSON:

19 Q. And who -- are you familiar with the  
20 Carbone Cancer Center -- Comprehensive Cancer Center?

21 A. I am.

22 Q. Okay. And what is that?

23 A. It's the division of university hospital  
24 and the medical school that houses clinical and

1 research oncologists and medical scientists that do  
2 cancer research.

3 Q. Do you know if the Carbone Comprehensive  
4 Cantor -- Cancer Center physicians had a role in  
5 advocating for the use of opioids?

6 MS. HIBBERT: Objection to form, calls for  
7 speculation.

8 BY THE WITNESS:

9 A. Yeah, this is way outside of -- I did not  
10 form an opinion about that. I don't have anything  
11 formal to say about that. My -- my -- my --

12 BY MS. DICKINSON:

13 Q. Do you know is what I'm asking?

14 MS. HIBBERT: Objection to form.

15 BY THE WITNESS:

16 A. Can -- let me reread the question here.

17 "Do you know if Carbone Comprehensive  
18 Cancer Center physicians had a role in advocating for  
19 the use of opioids?"

20 Interesting question. I don't know if  
21 they did.

22 BY MS. DICKINSON:

23 Q. Okay. Do you know any of the doctors  
24 in -- that were a part of the UW Pain and Policy

1 Group?

2 MS. HIBBERT: Objection to form.

3 BY THE WITNESS:

4 A. Yes.

5 BY MS. DICKINSON:

6 Q. Okay. Which doctors?

7 A. I don't know of any physicians, but you  
8 said doctors.

9 Q. Right, Ph.D.s would be included in my  
10 question.

11 A. Exactly.

12 And David Joranson was a principal,  
13 J-o-r-a-n-s-o-n, Ph.D., and either a part of or a  
14 regular consultant to the WPP -- what are they called,  
15 Wisconsin Pain & Policy Project, is that what they're  
16 called, WPPP?

17 Q. Typically it's referred to as the UW PPSG,  
18 I think.

19 Does that sound right?

20 A. Whatever.

21 Q. Okay. We know what we are talking about,  
22 correct?

23 A. Yes.

24 MS. HIBBERT: Objection.

1 BY MS. DICKINSON:

2 Q. Okay.

3 A. But June Dahl.

4 Q. Okay.

5 A. D-a-h-l, Ph.D.

6 Q. How long have you known Dr. Joranson?

7 MS. HIBBERT: Objection to form.

8 BY THE WITNESS:

9 A. Over 25 years.

10 BY MS. DICKINSON:

11 Q. How did you first know Dr. Joranson?

12 A. I either attended a presentation he gave  
13 or we were on a panel together presenting together to  
14 some sort of conference.

15 Q. Have you worked on -- have you worked with  
16 Dr. Joranson over the years?

17 MS. HIBBERT: Objection to form.

18 BY THE WITNESS:

19 A. Again, listening to your question, I would  
20 not say I have worked with him which implies  
21 collaboration. I have not.

22 BY MS. DICKINSON:

23 Q. Okay. That's a fair distinction.

24 You have not collaborated with

1 Dr. Joranson on professional projects, is that fair?

2 A. I'm having a hard time answering your  
3 question, ma'am, because it was so many years ago and  
4 would one characterize it as collaboration to be  
5 working as an addiction medicine physician with a  
6 professional society on a topic that they were also  
7 working with. So I didn't work with him, but did we  
8 ever work in parallel and, you know, on -- on the same  
9 general theme. Well, certainly I've -- I've already  
10 implied that we have sat on panels together where a  
11 topic was discussed and the topic would be the use of  
12 pain meds.

13 Q. And when you say the use of pain meds, do  
14 you mean the opioid pain meds?

15 A. Yes, ma'am.

16 Q. Okay. How many times do you think you  
17 interacted with Dr. Joranson on panels and those types  
18 of things with respect to opioids over the 25 years?

19 MS. HIBBERT: Object to form.

20 BY THE WITNESS:

21 A. My best guess would be three to six.

22 BY MS. DICKINSON:

23 Q. And when you say three to six, three to  
24 six times?



1           A.       Three to six times --

2           Q.       Okay.

3           A.       -- in 25 years, yes, ma'am.

4           Q.       Okay. How long have you known June Dahl?

5           A.       Again, about 25 years, maybe a little  
6 bit -- I -- I knew June before I knew David by a few  
7 years.

8           Q.       Okay. And what was June Dahl's specialty?

9           MS. HIBBERT: Objection to form.

10       BY THE WITNESS:

11           A.       I should know the answer. I'm pretty  
12 certain she is a pharmacologist and not a pharmacist,  
13 but she teaches in the school of pharmacy. I don't  
14 think she is a pharmacist. I think she is a  
15 pharmacologist.

16       BY MS. DICKINSON:

17           Q.       And teaches in the school of pharmacy you  
18 meant at UW?

19           A.       University of Wisconsin, Rennebohm School  
20 of Pharmacy.

21           Q.       How did you come to know Dr. Dahl?

22           A.       Again, she has been faculty, but mostly it  
23 would be we were on faculty together in a particular  
24 course. We've taught together a number of times.

1 Q. Okay. What course have you taught with  
2 June Dahl?

3 A. Well, most recently the board review  
4 course for pain medicine sponsored by UW, and that's  
5 in my CV. I did it four or five years in a row.

6 Q. Okay. Have you taught other courses with  
7 June Dahl?

8 A. My general recollection is yes. Specifics  
9 I don't have. I would certainly think that we invited  
10 her to speak at Wisconsin Society of Addiction  
11 Medicine educational conferences where I was also on  
12 the faculty, but maybe that didn't happen, but I think  
13 it did.

14 Q. Okay. On the courses that you taught with  
15 June Dahl at UW, was there a syllabus?

16 A. Yes.

17 Q. Do you still have copies of those written  
18 syllabus?

19 A. I actually have thumb drives with three  
20 different years' worth of syllabi.

21 Q. And which years do you think you have?

22 A. '18, '17 and '16 of this century.

23 Q. Prior to these last five years where you  
24 taught the course with June Dahl at UW, did you teach

1 other courses with her ever at UW?

2 A. You know, I don't even know if it's in my  
3 CV, but it might be. Over the years I have been asked  
4 to present to classes in the law school, in the social  
5 works school, in the pharmacy school, maybe even the  
6 physical therapy school, maybe even the vet school,  
7 I -- you know, but people just call up and say, We've  
8 heard you are a good speaker or we need an expert.

9 And so I've probably taught in one of June's courses  
10 where I'd come in for one session and teach a session.

11 Q. Okay. We talked about your work on the  
12 PTAC for the Joint Commission back in 1998.

13 Did you ever come into contact with either  
14 Dr. Dahl or Dr. Joranson during your time working on  
15 that committee?

16 A. Yes.

17 Q. Okay. When?

18 A. My last year.

19 Q. Okay. And then is -- was that 1998?

20 A. I believe so.

21 Q. Okay. What was the substance of that  
22 contact?

23 A. A presentation was made to the PTAC about  
24 the idea of a new standard to put in -- in the manual.

1 Q. Okay. And when you say "the manual," we  
2 are talking about this CAMH?

3 A. CAMH, yes, ma'am.

4 Q. Okay. And was -- that presentation was  
5 made by Dr. Dahl and Dr. Joranson?

6 MS. HIBBERT: Object to form.

7 BY THE WITNESS:

8 A. No.

9 BY MS. DICKINSON:

10 Q. Okay. I'm sorry. Who made that  
11 presentation?

12 A. Dr. Joran- -- Dr. Dahl and another person  
13 whose name I don't recall.

14 Q. Was that other person someone at the UW  
15 pain and policy group?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. To the best of my recollection, it was  
19 not.

20 BY MS. DICKINSON:

21 Q. Okay. Was that other person someone from  
22 the University of Wisconsin?

23 A. To the best of my knowledge, it was not.

24 Q. Okay. Do you know what entity that other

1 person was affiliated with?

2 MS. HIBBERT: Objection to form.

3 BY THE WITNESS:

4 A. No.

5 BY MS. DICKINSON:

6 Q. Were there more than just Dr. Dahl and  
7 this other person that you don't recall making that  
8 presentation to the PTAC regarding the CM -- CAMH  
9 standards?

10 A. Yes.

11 Q. Okay. Who else was making the  
12 presentation?

13 A. The Joint Commission staff.

14 Q. Okay. Which Joint Commission staff?

15 A. I have no idea what their name was. I  
16 don't remember if they worked for what was called  
17 the -- the SSP, the Standards and Survey Processes  
18 committee, which was one level up, if I can digress  
19 for a second --

20 Q. Yes.

21 A. -- the Joint Commission has a Board of  
22 Commissioners which is like the board of directors.  
23 The SSP reports to them and oversees standards and  
24 survey procedures across all of the accreditation

1 programs for the Joint Commission. And then each of  
2 the accreditation programs, as I mentioned, ambulatory  
3 care, behavioral care, hospitals, long-term care, each  
4 of those had a PTAC.

5 So the SSP was in between the PTACs and  
6 the -- and the Board of Commissioners. So to get a  
7 new standard, staff has to conceptualize it, you have  
8 to present it to the PTAC and the PTAC has to approve  
9 it. It goes to the SSP, this is the way it was then,  
10 the SSP has to review it and approve it. If they  
11 approve it, it goes to the Board of Commissioners and  
12 the Board of Commissioners has to approve it and it  
13 gets put in the book. That was the process.

14 And I don't remember if it was formally  
15 somebody that worked for SSP or if it was just a staff  
16 member, pardon the phrase, in the bowels of the Joint  
17 Commission, who came, but it was a proposal of a new  
18 standard.

19 Q. Okay. And what was the content of the  
20 proposal of the new standard that Dr. Dahl and the  
21 others were --

22 MS. HIBBERT: Objection.

23 BY MS. DICKINSON:

24 Q. -- presenting on?

1 MS. HIBBERT: Sorry. Same objection.

2 BY MS. DICKINSON:

3 Q. Go ahead.

4 A. The proposal was that there be a standard  
5 in the manual that would address how the accredited  
6 organization addresses pain complaints.

7 Q. And what were they proposing the  
8 accredited organization would do to address pain  
9 complaints?

10 MS. HIBBERT: Objection to form.

11 BY THE WITNESS:

12 A. To shorten our dialogue, they were  
13 proposing what became known as the Joint Commission  
14 pain standard.

15 BY MS. DICKINSON:

16 Q. Okay. The Joint Commission pain standard,  
17 what was the general substance of the content of that?

18 MS. HIBBERT: Objection to form.

19 BY THE WITNESS:

20 A. Again, I don't have any opinions about  
21 this. I have facts because I was there at the time.

22 BY MS. DICKINSON:

23 Q. Okay.

24 A. The Joint Commission pain standard says

1     that an accredited organization will be able to  
2     demonstrate to the surveyors that it assesses patients  
3     regularly regarding the status of any pain that they  
4     may have.

5           Q.     Did that standard that they were advocating --  
6     advocating for require that every patient who came  
7     into the hospital be assessed for pain?

8                     Is that a short way of saying it?

9           MS. HIBBERT:   Objection to form.

10    BY THE WITNESS:

11           A.     That's fair.

12    BY MS. DICKINSON:

13           Q.     Okay.  Is this -- was the standards  
14     summarizing what has been often called as the pain is  
15     the vi -- fifth vital sign concept?

16           MS. HIBBERT:   Objection to form.

17    BY THE WITNESS:

18           A.     I will answer your question by saying that  
19     that is an extraordinarily commonplace and inaccurate  
20     conflation of two different concepts.

21    BY MS. DICKINSON:

22           Q.     Okay.  I -- I want to stick with what the  
23     actual standard they were advocating for was.

24           A.     That's good.



1 Q. And so the standard, you said, I think,  
2 and I just want to be clear, the standard that they --  
3 Dahl and the others were advocating for was that each  
4 patient that came into the hospital setting would be  
5 assessed for pain.

6 Is that accurate?

7 A. Yes.

8 Q. Okay.

9 A. To be -- to be clear, the fifth vital sign  
10 language was never used by the Joint at that time.  
11 Other people at the same time were developing the  
12 concept of fifth vital sign. That was not the Joint  
13 Commission.

14 Q. Okay. Do you know who else was developing  
15 that concept, the fifth vital sign?

16 MS. HIBBERT: Objection to form.

17 BY THE WITNESS:

18 A. It came from some people, some clinicians,  
19 some whatevers, some in California, and some in the  
20 VA, both -- both California through some bureaucratic  
21 arm of the state government and maybe the health  
22 department, whatever. Somebody in California adopted  
23 that term and some -- and the VA hospital system  
24 developed that term, but they were never Joint

1 Commission terms.

2 BY MS. DICKINSON:

3 Q. Okay. Is pain a vital sign?

4 A. No.

5 MS. HIBBERT: Objection to form.

6 BY MS. DICKINSON:

7 Q. Do you --

8 MS. HIBBERT: Please.

9 BY MS. DICKINSON:

10 Q. -- the standard that we talked about with  
11 respect to Dr. -- that Dr. Dahl was advocating for,  
12 okay, so the Joint -- Joint Commission pain standard  
13 change that she was advocating for, did you agree with  
14 the change that she and others were advocating for?

15 MS. HIBBERT: Objection to form.

16 Again, this is far afield from the expert  
17 opinions that Dr. Miller has offered in this case.  
18 Are you asking his personal opinion in this question,  
19 because he is clearly not offering an expert opinion  
20 about anything that you have been asking about pretty  
21 much this entire deposition since we haven't talked  
22 about his substantive opinions once.

23 MS. DICKINSON: I am entitled to ask him about  
24 his background. This is his background.

1 MS. HIBBERT: This is not background.

2 BY MS. DICKINSON:

3 Q. Doctor, please answer the question.

4 MS. HIBBERT: This is a -- this is a opinion  
5 about a -- this is a question about an opinion that he  
6 has not offered in this case.

7 MS. DICKINSON:

8 Q. Doctor, please answer the question.

9 A. May I?

10 Q. Did you agree with the -- with the change  
11 in the standard that Dr. Dahl and others were  
12 proposing?

13 MS. HIBBERT: Objection for the same reasons I  
14 just stated.

15 BY MS. DICKINSON:

16 Q. Go ahead, Doctor.

17 THE WITNESS: May I proceed with the objection  
18 on -- on the table?

19 MS. HIBBERT: You can proceed if you can answer  
20 the question.

21 BY THE WITNESS:

22 A. I can answer the question.

23 BY MS. DICKINSON:

24 Q. I thought so. Go ahead.

1 MS. HIBBERT: Same objection.

2 BY THE WITNESS:

3 A. The PTAC advised that the standard not be  
4 adopted.

5 BY MS. DICKINSON:

6 Q. And did you agree with the PTAC committee  
7 that the standard should not be adopted?

8 MS. HIBBERT: Objection to form.

9 BY MS. DICKINSON:

10 Q. Go ahead.

11 A. I did.

12 Q. When you were on the PTAC committee, did  
13 the standard get adopted?

14 A. It did not.

15 Q. Okay. Do you know if after you left the  
16 committee that standard was adopted?

17 A. It was.

18 Q. Okay. When?

19 A. The following year.

20 Q. Do you know if Dr. Dahl had renewed her  
21 request to the committee the following year when it  
22 was adopted?

23 MS. HIBBERT: Objection to form, calls for  
24 speculation.

1 BY THE WITNESS:

2 A. It -- it does call for speculation. I --

3 I -- I believe that it was the exact same process

4 presented to a differently composed PTAC, possibly

5 with more forceful arguments, but I believe the

6 process of presenting it was staff with these

7 excise -- ex -- external people with them and it was

8 adopted.

9 BY MS. DICKINSON:

10 Q. Okay. And was one of the external people

11 to your understanding when the process happened the

12 next year Dr. Dahl?

13 MS. HIBBERT: Objection to form.

14 BY THE WITNESS:

15 A. You asked me only to my understanding, and

16 I would say to my understanding, but I could be wrong.

17 BY MS. DICKINSON:

18 Q. Is it -- to your understanding is the

19 answer yes?

20 MS. HIBBERT: Objection to form, asked and

21 answered. He told you what he knew. He said he

22 doesn't know is his understanding.

23 BY THE WITNESS:

24 A. Yeah, I -- I don't --

1 BY MS. DICKINSON:

2 Q. I'm ask -- wait, wait, wait. Let's stop.

3 MS. HIBBERT: You are putting words in his mouth  
4 and we are not going to continue doing this. This  
5 is --

6 MS. DICKINSON: I am not putting words in his  
7 mouth.

8 MS. HIBBERT: Yes, you are. You absolutely are.

9 MS. DICKINSON: I asked for his understanding  
10 and he is going to give the answer. Counsel, you are  
11 breaking up the deposition --

12 MS. HIBBERT: He has given the answer.

13 MS. DICKINSON: -- to the point where the -- I  
14 can't understand the witness's questions because you  
15 are talking over him.

16 MS. HIBBERT: He has not asked any questions.  
17 He was giving a --

18 MS. DICKINSON: Can you please be respectful and  
19 wait --

20 MS. HIBBERT: -- responsive answer.

21 MS. DICKINSON: -- until he has finished his  
22 answer.

23 MS. HIBBERT: I will not.

24 MS. DICKINSON: And there is another question on

1 the table.

2 MS. HIBBERT: I can object. I can put an  
3 objection on the record in between your question and  
4 the answer. I don't even know what you are talking  
5 about.

6 MS. DICKINSON: I will give you a running  
7 objection to this entire line of questions if you  
8 would stop breaking up the witness's testimony by  
9 talking over him.

10 MS. HIBBERT: No.

11 MS. DICKINSON: Would you like a running  
12 objection?

13 MS. HIBBERT: Please ask a question.

14 BY MS. DICKINSON:

15 Q. Okay. I'm sorry, Doctor. Can we start  
16 again.

17 I asked if your understanding was the year  
18 that it passed, the year after you rotated off the  
19 PTAC committee, if Dr. Dahl had participated in again  
20 advocating for the change?

21 MS. HIBBERT: Objection; form. He has already  
22 answered that question.

23 BY MS. DICKINSON:

24 Q. Go ahead, Doctor.

1           A.       Yeah. I am not certain that she was  
2       there, but I think she was there.

3           Q.       Okay. And when the new standards passed  
4       requiring hospitals to assess pain in each patient,  
5       did hospitals around the country have to follow them?

6           MS. HIBBERT: Objection to form, calls for  
7       speculation, lack of foundation.

8       BY THE WITNESS:

9           A.       No hospital has to follow any standard.

10       BY MS. DICKINSON:

11          Q.       Fair enough.

12                    If hospitals did not follow the Joint  
13       Commission standards, they would essentially -- they  
14       may lose their accreditation, is that correct?

15          MS. HIBBERT: Objection to form.

16       BY THE WITNESS:

17          A.       It takes a lot to lose accreditation.

18       BY MS. DICKINSON:

19          Q.       Okay. We talked earlier, generally  
20       hospitals endeavor to follow the standards, don't  
21       they?

22          MS. HIBBERT: Objection to form, calls for  
23       speculation, lack of foundation.

24       BY THE WITNESS:



1           A.       Is your question do hospitals in general  
2       endeavor to adhere to Joint Commission standards?

3       BY MS. DICKINSON:

4           Q.       Yes.

5           A.       In general --

6           MS. HIBBERT:   Objection.   Same objections.

7       BY THE WITNESS:

8           A.       In general, hospitals do.

9       BY MS. DICKINSON:

10          Q.       In general was this new standard in your  
11       view a good or a bad thing?

12          MS. HIBBERT:   Objection to form, outside the  
13       scope of this witness' opinions.   This witness is not  
14       being offered as a fact witness.

15       BY THE WITNESS:

16          A.       Yeah, I really feel like this is far  
17       afield from what I've been asked to present as an  
18       expert.   I don't have any opinions here about pain, I  
19       don't have any opinions about pain treatment, about  
20       evaluation of pain, about hospital accreditation.  
21       Those are not opinions I was asked to formulate, nor  
22       have I researched them.   You know --

23       BY MS. DICKINSON:

24          Q.       Doctor, this is a part of your background.

1 MS. HIBBERT: Let him finish. You are  
2 interrupting his answer now.

3 Doctor, are you finished?

4 BY THE WITNESS:

5 A. No, no -- - my -- I -- I am never, ever  
6 supposed to be debate you, but I -- I disagree with  
7 your characterization that asking me my opinion about  
8 whether a given Joint Commission standard was well  
9 crafted or not is my background.

10 BY MS. DICKINSON:

11 Q. Well, you served on the PTAC for the Joint  
12 Commission, did you not?

13 A. Oh, I did.

14 Q. Okay. So I'm going to ask my question  
15 again.

16 Did you believe in your opinion that this  
17 standard change was a good thing or a bad thing?

18 MS. HIBBERT: Same objections, asked and  
19 answered.

20 BY THE WITNESS:

21 A. I -- I honestly don't understand the  
22 ramifications of my answering or not answering. I  
23 don't know if I'm compelled to answer. I'm just  
24 trying to understand the process, because, really, you

1 are asking me about a lot of stuff that is not part of  
2 what I thought I was brought here to do under oath,  
3 honestly.

4 BY MS. DICKINSON:

5 Q. Doctor -- doctor, I'm not trying to trick  
6 you. If you have no opinion, that's fine. But if you  
7 do have a pin -- an opinion, you are under oath.

8 Do you have an opinion whether the new  
9 standard was a good or a bad thing?

10 A. I do not --

11 MS. HIBBERT: Objection to form.

12 BY THE WITNESS:

13 A. Right, right, I don't have an opinion.

14 BY MS. DICKINSON:

15 Q. You don't have an opinion.

16 Have you ever stated an opinion in public  
17 about --

18 MS. HIBBERT: Objection.

19 BY MS. DICKINSON:

20 Q. -- whether the standard was a good or a  
21 bad thing?

22 MS. HIBBERT: Objection to form.

23 BY THE WITNESS:

24 A. My understanding is that stating an

1 opinion in public and stating an opinion in deposition  
2 as an expert are very different things.

3 BY MS. DICKINSON:

4 Q. Doctor, I am not trying to argue with you.  
5 I'm just asking if you hold an opinion. You told me a  
6 minute ago you do not have an opinion. I was asking  
7 if you ever have stated such an opinion in public.

8 MS. HIBBERT: Objection --

9 BY MS. DICKINSON:

10 Q. Have you?

11 MS. HIBBERT: Objection to form, asked and  
12 answered.

13 BY THE WITNESS:

14 A. I don't think I've answered the question  
15 of have I stated a general viewpoint in public about  
16 the standard. I have.

17 BY MS. DICKINSON:

18 Q. Okay. And what was that general viewpoint  
19 about the standard that you have stated in public?

20 MS. HIBBERT: Objection to form.

21 BY THE WITNESS:

22 A. I think the standard, on balance, has not  
23 been helpful.

24 BY MS. DICKINSON:

1 Q. And -- and why is that?

2 A. Because I believe that hospitals in their  
3 efforts to adhere to the standards and implement  
4 policies did things that were never required by the  
5 Joint Commission. I believe the hospitals did things  
6 that have not been helpful.

7 Q. When you say things that have not been  
8 helpful, do you mean that the standard increased the  
9 use of opioids?

10 MS. HIBBERT: Objection to form.

11 BY THE WITNESS:

12 A. I think I know the question that I'd like  
13 you to ask, and it is very similar to the one you  
14 asked. Could you rephrase, maybe?

15 BY MS. DICKINSON:

16 Q. I can't guess as to one you want me to  
17 ask.

18 A. That's right, you can't read my mind.

19 Q. I'm sorry.

20 Is part of the way that the standards have  
21 not been helpful increasing the use of opioids in your  
22 view?

23 MS. HIBBERT: Objection to form.

24 BY THE WITNESS:

1 A. Yes.

2 BY MS. DICKINSON:

3 Q. Doctor, do you know if the UW Pain and  
4 Policy Group also worked with the Federation of State  
5 Medical Boards?

6 A. I do know that.

7 MS. HIBBERT: Objection to form.

8 THE WITNESS: Sorry.

9 BY MS. DICKINSON:

10 Q. Okay. Do you know what their work with  
11 the Federation of State Medical Boards was?

12 MS. HIBBERT: Objection to form.

13 BY THE WITNESS:

14 A. I have a general sense, yes.

15 BY MS. DICKINSON:

16 Q. Okay. What is that general sense?

17 A. They advised the federation to revise its  
18 own views on opioid prescribing.

19 Q. Okay. And in -- in what way were those  
20 views revised?

21 MS. HIBBERT: Objection to form.

22 BY THE WITNESS:

23 A. Again, this is way outside of my expert  
24 opinion, but you asked my knowledge about what

1     happened, and I certainly have knowledge about all of  
2     those things that played out.

3                     Their hope was that licensure boards would  
4     not discipline physicians for overprescribing and, in  
5     fact, as a result of the dialogue, the federation  
6     members who were the individual state licensure  
7     entities became more prone to disciplining physicians  
8     for undertreating pain.

9             MS. DICKINSON:    Doctor, I think it might make  
10    sense to take a very short break and then I think we  
11    have less than a half hour to go.    Maybe even much  
12    shorter than that.    I'm going to try to consolidate a  
13    little bit, okay?

14            THE WITNESS:    Yes, ma'am.

15            THE VIDEOGRAPHER:   We are off the record at  
16    3:43 p.m.

17                               (WHEREUPON, a recess was had  
18                               from 3:43 to 3:49 p.m.)

19            THE VIDEOGRAPHER:   We are back on the record at  
20    3:50 -- 49 p.m.

21    BY MS. DICKINSON:

22            Q.     Okay.   Dr. Miller, we are back on the  
23    record after a very short break, and I do appreciate  
24    you keeping the breaks really short.   It has really

1     helped the day move along.

2                     I just have a -- I -- I may jump around  
3     just a little bit with these last set of questions on  
4     some different subject areas, so just let me know if  
5     you don't understand where we are or what we are  
6     talking about.

7                     With respect to Exhibit 3, I just want to  
8     ask about one more of your positions that you listed  
9     in that. At Page 10 at the top, could you go to that?

10            A.     Yes, ma'am.

11            Q.     Okay. The -- under Consulting Positions,  
12     the very top one says: "To attorneys and insurance  
13     companies" and then it says: "Re legal consultations,  
14     depositions, case reviews and independent medical  
15     exams."

16                     Is -- is this a description of the work  
17     that you do for Michael Miller, M.D. LLC, your  
18     consulting company?

19            A.     Yes, ma'am.

20            Q.     Okay. We've already talked about some of  
21     your consulting arrangements today.

22                     Are there -- is there any work that you  
23     are doing for attorneys consulting that we haven't  
24     talked about today? I don't want -- I don't want



1 specifics yet. Just let me ask the question first and  
2 then I'll ask a follow-up.

3 Is there any work for attorneys that you  
4 are currently performing for Michael Miller, M.D. that  
5 we haven't talked about already today?

6 MS. HIBBERT: Objection to form.

7 BY THE WITNESS:

8 A. Yes, there is.

9 BY MS. DICKINSON:

10 Q. Okay. Does any of that work that we  
11 haven't talked about already today have to do with  
12 opioids?

13 MS. HIBBERT: Objection to form.

14 BY THE WITNESS:

15 A. You asked me that question before and,  
16 again, if there is ever a case of opioid addiction, a  
17 case of opioid withdrawal, I mean, there -- there  
18 could be some in there, and -- and with regard to this  
19 litigation and the -- and the -- and the issues here,  
20 no, but opioids in the broadest sense, sure.

21 BY MS. DICKINSON:

22 Q. Okay. Maybe it's easiest to ask it this  
23 way:

24 How much of your time, professional time,

1 is spent for Michael Miller Consulting?

2 MS. HIBBERT: Objection to form, asked and  
3 answered.

4 BY THE WITNESS:

5 A. The work expands as it presents itself.  
6 So it could be as little as 5 percent of a 40-hour  
7 workweek or it could expand to 20 hours a week which  
8 would make my workweek 60 hours, so...

9 BY MS. DICKINSON:

10 Q. Generally, I just want to get a sense of  
11 it, and I may have already asked you this, I do really  
12 apologize if I have, in the last year how much of your  
13 time has been spent for Michael Miller Consulting?

14 MS. HIBBERT: Objection to form, asked and  
15 answered.

16 BY MS. DICKINSON:

17 Q. What percentage?

18 MS. HIBBERT: Same objection.

19 BY THE WITNESS:

20 A. Again, I've been quite involved with  
21 consulting work since I left full-time work. And --  
22 and, again, part of the reason to leave full-time work  
23 is to be able to do more consulting work because I  
24 kept getting demands for consult work and I'd keep

1 going to my employer and saying, Can I do this, is it  
2 a conflict, so finally we decided just leave this  
3 full-time job so I could go do all of this stuff.

4 So, it's gotten to be pretty busy. I have  
5 two open cases now in addition to this one and I have  
6 another one or two pending and another which has  
7 already wrapped up all in the last ten months.

8 BY MS. DICKINSON:

9 Q. Okay. Is your ultimate goal to transition  
10 your entire professional work to the consulting  
11 business?

12 A. Yes.

13 Q. Okay. Does UW allow you to do -- run your  
14 consulting business?

15 A. Yes.

16 MS. HIBBERT: Objection to form.

17 THE WITNESS: Sorry.

18 BY MS. DICKINSON:

19 Q. So the UW prohibition on working for  
20 advisory boards or speakers bureaus or things of that  
21 nature does not extend to expert witness work for  
22 pharmaceutical companies, is that fair?

23 MS. HIBBERT: Objection to form.

24 BY THE WITNESS:

1           A.       I am not aware of any such prohibition.

2       BY MS. DICKINSON:

3           Q.       Prior to 2018 when I think you were saying  
4       you were starting to wrap up your consulting business,  
5       what portion of your professional work in the last  
6       five years has generally been for Michael Miller  
7       Consulting?

8           A.       5 percent.

9           Q.       Okay. Fair.

10                   This was an odd question, actually, I  
11       have. Appendix A had some portions of your CV that  
12       were in bold.

13                   Is there any sig -- significance to the  
14       bold?

15           A.       Where?

16           Q.       On mine, let's see, a good example on mine  
17       was Page 14, and maybe this only existed on Appendix A  
18       and not actually on Exhibit 3.

19           A.       Oh, those are things I considered to be  
20       pretty significant, a total subjective rating by me.

21           Q.       Okay. So there is actually a significance  
22       to the bold, those are -- those are more significant  
23       events on your CV, is that fair?

24           A.       More significant events on the CV, right,

1 more significant committees, more significant  
2 publications, more significant presentations.

3 Q. I'm glad I asked because I just thought it  
4 was a mistake.

5 A. No, no. It's like -- it's like if you  
6 don't want to read all of this stuff, just let your  
7 eyes go to the bolds.

8 Q. Okay. Fair. That is helpful.

9 Do you retain copies of the presentations  
10 that are listed in your CV?

11 A. Some.

12 Q. Okay. So we would have to ask on a  
13 specific basis whether you retained a copy?

14 A. You would.

15 Q. Okay. Did you -- I think you mentioned in  
16 your report you had involvement in the authorship of  
17 the ASAM criteria for defining addiction, is that  
18 right?

19 A. You just conflated two things.

20 Q. Oh, fair enough. Okay.

21 What -- what two things?

22 A. Ans -- answer yes to both.

23 Q. Okay.

24 A. But -- but -- but it is not the same

1     thing.

2           Q.     Okay. What involvement did you have in  
3     authoring the ASAM criteria, what was typically  
4     referred to as ASAM criteria?

5           A.     Exactly. The first edition was published  
6     in '91. I had no role.

7           Q.     Okay.

8           A.     The next edition was published in '94, I  
9     think, and I was on the work group that wrote it.

10          Q.     Okay.

11          A.     I was not on any other work groups  
12     thereafter. But then I was asked to be the managing  
13     editor of the current edition, which was '13 and I  
14     contributed, and I don't think I really got credit  
15     for, the chapter on treatment of tobacco use disorder  
16     and the treatment of seniors. And so I reviewed the  
17     full draft of the current edition and served as  
18     managing editor.

19          Q.     Okay. So the 2013 version is the current  
20     version, correct?

21          A.     Yes, ma'am.

22          Q.     Okay. I assume, but I'm not going to  
23     assume, are you satisfied with the language in the  
24     current version?

1 MS. HIBBERT: Objection to form.

2 BY THE WITNESS:

3 A. The reason I will say that you asked a  
4 loaded question is because I was specifically asked to  
5 contribute to language.

6 BY MS. DICKINSON:

7 Q. Okay.

8 A. I was specifically asked to assist with  
9 terminology, and I failed to mention that in addition  
10 to the roles I have previously just testified to, I  
11 wrote paragraphs -- I don't think a chapter, but  
12 paragraphs with regard to terminology and I tried to  
13 edit the full book for terminology with respect to the  
14 ASAM definition, because the ASAM definition is a  
15 specific thing and the ASAM criteria says that it uses  
16 terminology of the Diagnostic and Statistical Manual  
17 of the American Psychiatric Association which isn't  
18 the same as the terminology of the ASAM definition of  
19 addiction. Therefore, language is something that  
20 matters, and you said am I satisfied with the  
21 language. I am okay with where we got to in the final  
22 version.

23 Q. Okay. And that includes the definition of  
24 addiction?

1           A.       Yes.

2           Q.       Okay. Does the ASAM criteria define  
3   opioid use disorder?

4           A.       No.

5           Q.       Does the ASAM criteria rely on the DSM for  
6   the definition of opioid use disorder?

7           MS. HIBBERT: Objection to form.

8   BY THE WITNESS:

9           A.       I'm scratching my head. That was a very,  
10   very specific question, and it -- what it does is it  
11   relies on the DSM for all substance use disorder  
12   diagnoses, and so I guess opioids would be included,  
13   but it's -- it's not as precise as your question was.

14   BY MS. DICKINSON:

15           Q.       Okay. Fair.

16                   How does the ASAM criteria rely on the DSM  
17   for all substance use diagnoses?

18           MS. HIBBERT: Objection to form.

19   BY THE WITNESS:

20           A.       The way it does it goes back to the first  
21   edition in '91, and it says: This is the criteria for  
22   the treatment of substance use disorder. And it says  
23   that a necessary first step is a diagnosis, that you  
24   don't offer treatment for what I call addiction unless



1     addiction is present. So it says you must have a  
2     diagnosis present and the diagnosis must comply with  
3     the current edition of the DSM. That's how it does  
4     it.

5     BY MS. DICKINSON:

6             Q.     Totally understood.

7                     Did you have any involvement with  
8     authorship of any of the DSM criteria?

9             MS. HIBBERT: Objection to form.

10     BY THE WITNESS:

11             A.     I was in regular dialogue with the  
12     authors, but I was on none of the work groups and my  
13     name is nowhere in it.

14     BY MS. DICKINSON:

15             Q.     Okay. Who were the authors that you were  
16     in regular dialogue with?

17             A.     The addiction and substance related  
18     disorders chapter was chaired by Charles O'Brien and a  
19     very active member of the committee was Wilson Compton  
20     and those are the two gentlemen that I had most of my  
21     e-mails with.

22             Q.     Was Charles O'Brien the pry -- and  
23     Wills -- Wilson, I'm sorry, what is his last name?

24             A.     Compton.

1 Q. Compton.

2 Were Charles O'Brien and Wilson Compton  
3 the primary authors of the addiction and substance  
4 abuse portion of the DSM-V?

5 A. That's not the way the APA categorizes it.  
6 They say everything is done by committee and there are  
7 committee chairs. You can decide if that's the  
8 equivalent of author.

9 Q. Okay. That's fair.

10 Who -- were Charles O'Brien and Wilson  
11 Compton the committee chairs in charge of authoring  
12 the addiction and substance abuse portion of DSM-V?

13 A. I don't recall any particular title that  
14 Dr. Compton had, but Dr. O'Brien was the chair of the  
15 chapter.

16 Q. Okay. Do you know who else served on the  
17 committee authoring that chapter other than  
18 Dr. O'Brien and Dr. Compton?

19 A. I do not recall today, ma'am.

20 Q. Okay. Did you have regular interaction  
21 with Dr. O'Brien over the substance of what was going  
22 to be in DSM-V?

23 A. No.

24 MS. HIBBERT: Objection to form.

1 THE WITNESS: Sorry.

2 BY THE WITNESS:

3 A. No, I did not.

4 BY MS. DICKINSON:

5 Q. Okay. Did you have regular interaction  
6 with Dr. Compton over the substance of what was going  
7 to be in DSM-V?

8 MS. HIBBERT: Objection to form.

9 BY THE WITNESS:

10 A. No.

11 BY MS. DICKINSON:

12 Q. When you said that you had regular  
13 interaction with Dr. O'Brien and Dr. Compton over the  
14 DSM criteria, what was the regular interaction about?

15 MS. HIBBERT: Objection to form,  
16 mischaracterizes the testimony.

17 BY THE WITNESS:

18 A. Yeah, I don't recall that I ever said  
19 "regular." It was episodic.

20 BY MS. DICKINSON:

21 Q. Okay. Sorry. I didn't mean to put words  
22 in your mouth.

23 When you say that you had episodic  
24 interaction with Dr. Compton and Dr. O'Brien over the

1 DSM criteria, what was that episodic interaction  
2 about?

3 MS. HIBBERT: Objection to form.

4 BY THE WITNESS:

5 A. I recall some specific, very specific  
6 dialogue I had with them regarding cannabis use  
7 disorder and tobacco use disorder and how I thought  
8 that they could have formatted that differently. I  
9 had no specific comments about opioid use disorder. I  
10 had general concerns about the sort of fundamental  
11 framework which considers there to be a continuity  
12 between mild, what they call mild SUD and moderate and  
13 severe SUD.

14 Q. And did you discuss those concerns with  
15 Dr. -- either Dr. O'Brien or Dr. Compton?

16 A. I did.

17 Q. With both of them?

18 A. At different times. I don't know if I  
19 ever sent an e-mail copy to both, but at different  
20 points each of them.

21 Q. Did the resulting DSM-V reflect -- or was  
22 the resulting DSM-V in -- in align with the way you --  
23 that's a terrible question. God, I'm sorry. It is  
24 getting late.

1           The concerns you were expressing about the  
2    language of the -- to Dr. Compton and Dr. O'Brien,  
3    were those addressed in your view in the ultimate  
4    resulting language in DSM-V?

5           MS. HIBBERT:   Objection to form.

6    BY THE WITNESS:

7           A.       No.

8           THE WITNESS:   Sorry.

9    BY THE WITNESS:

10          A.       No.

11   BY MS. DICKINSON:

12          Q.       Were Dr. O'Brien and Dr. Compton to your  
13   knowledge on the committee that authored DSM-IV?

14          A.       I don't know.

15          Q.       Okay.   Same question with respect to  
16   DSM-III, were Dr. O'Brien and Dr. Compton on the  
17   committee that authored DSM-III?

18          A.       I do not recall.

19          Q.       Do you know what -- at what point in time  
20   Dr. O'Brien started to chair the committee regarding  
21   the DSM diagnostic criteria, specifically the  
22   addiction and substance abuse chapter?

23          A.       I do not know exactly when that happened.

24          Q.       Do you know roughly?

1 MS. HIBBERT: Objection to form.

2 BY THE WITNESS:

3 A. I believe that the project was an  
4 eight-year project and I think he was probably there  
5 at the start.

6 BY MS. DICKINSON:

7 Q. Okay.

8 A. But I don't know that he was the original  
9 chair. I honestly don't know.

10 Q. Fair enough.

11 To your knowledge, he was involved in the  
12 entirety of the project whether or not he was the  
13 chair of that project the entire time you don't know,  
14 is that fair?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. I honestly don't know if he was on the  
18 committee from day one. I -- I can only speculate as  
19 to that.

20 BY MS. DICKINSON:

21 Q. Okay. In -- in your experience, did you  
22 view Dr. O'Brien and Dr. Compton as the -- as the face  
23 of that committee essentially?

24 MS. HIBBERT: Objection to form.

1 BY THE WITNESS:

2 A. I -- I would only characterize Dr. O'Brien  
3 as such.

4 BY MS. DICKINSON:

5 Q. Fair. Okay.

6 Let's talk for a minute about diagnostic  
7 criteria for addiction. In your clinical practice,  
8 how do you conduct an evaluation for diagnosing  
9 someone with addiction?

10 A. Clinical interview.

11 Q. Are there any diagnostic tools that you  
12 use, such as an MRI or a PET scan or some other  
13 diagnostic tool other than a clinical interview to  
14 diagnosis someone with addiction?

15 MS. HIBBERT: Objection to form.

16 BY THE WITNESS:

17 A. I don't use anything besides the clinical  
18 interview. At -- at times I've used a standard  
19 questionnaire called the Michigan Alcoholism Screening  
20 Test which was adapted to be the Drug Abuse Screening  
21 Test by actually a colleague here at Wisconsin. So  
22 I've used the MAST and the DAST at times.

23 Q. Anything else other than that?

24 A. Nothing else.

1 Q. Have you ever met with any other experts  
2 on the defense side in this case?

3 MS. HIBBERT: Objection to form, lack of  
4 foundation.

5 BY THE WITNESS:

6 A. I don't know who they are.

7 BY MS. DICKINSON:

8 Q. Fair enough. You are not aware that  
9 you've met with any of the other experts that were  
10 disclosed as defense experts regarding this case, is  
11 that fair?

12 A. Now, that was very well phrased because  
13 they be and I may not know it and I may have met with  
14 them in a meeting.

15 Q. That was why I asked it the way I did.

16 A. Yeah, I have no idea.

17 Q. Okay.

18 A. Yeah.

19 Q. Have you been asked to provide trial  
20 testimony in this case?

21 MS. HIBBERT: Objection to form.

22 BY THE WITNESS:

23 A. I don't -- I don't know how to answer that  
24 question. It hadn't -- it had -- it hasn't gotten to



1     that point.

2     BY MS. DICKINSON:

3           Q.     Totally fair. My question -- my only  
4     question is do you have plans to be at the  
5     October trial in this case?

6           MS. HIBBERT: Objection to form.

7     BY THE WITNESS:

8           A.     If I'm asked to appear as an expert  
9     witness, I expect to be there.

10    BY MS. DICKINSON:

11          Q.     Have you been asked to appear at the trial  
12    as of today?

13          MS. HIBBERT: Objection to form, calls for a  
14    disclosure of communications between Dr. Miller and  
15    counsel that are outside of the bounds of Rule 26 and  
16    I'll advise you not to answer.

17          THE WITNESS: I will -- I will follow your  
18    advice.

19    BY MS. DICKINSON:

20          Q.     Dr. Miller, has -- have you blocked out on  
21    your calendar the trial dates in this case?

22          A.     Yes.

23          Q.     You talked earlier about a presentation  
24    that you may have given with David Haddox, and bear

1 with me, I'm just reading from my notes so I'm not  
2 sure if I'm characterizing this the correct way, the  
3 DSM-V and the new ASAM criteria, is that a  
4 presentation that you gave jointly with David Haddox?

5 MS. HIBBERT: Objection.

6 BY THE WITNESS:

7 A. Absolutely not.

8 MS. DICKINSON:

9 Q. Okay. I thought my notes were wrong on  
10 that. Let's just talk about the presentation then.  
11 There was a presentation listed in your CV, "DSM-V and  
12 the New ASAM Criteria."

13 Do you know if you have and retained a  
14 copy of that presentation?

15 A. Do you see in your notes, ma'am, to whom  
16 the audience was?

17 Q. I don't, but the date on it was June 13th  
18 of 2014.

19 A. Of the ones that come to mind, I think I  
20 still have all of those.

21 Q. Okay. Oh, here. Now here is where my  
22 notes were about it -- this.

23 There was -- you talked about serving on a  
24 panel with David Haddox at the ACM meetings, is that

1 accurate?

2 MS. HIBBERT: Objection to form.

3 BY THE WITNESS:

4 A. That's accurate.

5 BY MS. DICKINSON:

6 Q. Okay. And there was a presentation  
7 roughly titled "Pain and Addiction: Common Threads,"  
8 am I saying that accurately?

9 A. That, ma'am, would be the name of the  
10 course. The presentation I have no idea what the --  
11 what it was or if it happened. I was speculating.

12 Q. Okay. Do you have course materials from  
13 that course, have you retained those?

14 MS. HIBBERT: Objection to form. He just said  
15 he didn't know if it happened.

16 BY THE WITNESS:

17 A. I don't know what I have and don't have.  
18 I have some things. I may have some of my talks.  
19 They may be too old to have been retained. And I may  
20 have some syllabi, but I don't recall which ones.

21 BY MS. DICKINSON:

22 Q. Okay. Did Charles O'Brien participate in  
23 the ASAM conferences that you were discussing earlier?

24 MS. HIBBERT: Objection to form.

1 BY THE WITNESS:

2 A. I do not believe that Dr. O'Brien was ever  
3 on the faculty for Common Threads.

4 BY MS. DICKINSON:

5 Q. Do you know if Dr. Bri -- O'Brien  
6 generally participated in the ASAM organization?

7 MS. HIBBERT: Objection to form, calls for  
8 speculation.

9 BY THE WITNESS:

10 A. My response to your question is that  
11 Charlie was a frequent attendee and a not uncommon  
12 presenter at ASAM conferences over decades.

13 BY MS. DICKINSON:

14 Q. Okay. Dr. Miller, do you own stock in any  
15 pharmaceutical companies currently?

16 A. I do not.

17 MS. DICKINSON: I think that's all of the  
18 questions I have for now. I don't know if you are  
19 going to ask questions, but I could -- if you're --  
20 while you are asking, I could look at my notes,  
21 otherwise I just need, like, a two-minute break.

22 MS. HIBBERT: Let's take a two-minute break.

23 MS. DICKINSON: Okay.

24 THE VIDEOGRAPHER: We are off the record at

1 4:12 p.m.

2 (WHEREUPON, a recess was had  
3 from 4:12 to 4:14 p.m.)

4 THE VIDEOGRAPHER: We are back on the record at  
5 4:14 p.m.

6 MS. DICKINSON: Dr. Miller, we are back on the  
7 record. You are still under oath.

8 I think I am finished with my questions  
9 for you here today. I may have a few more depending  
10 on what your counsel asks.

11 But just for the record, Counsel, I know  
12 you were working on whether redacted invoices could be  
13 produced here at the deposition today given Special  
14 Master Cohen's ruling a few hours ago.

15 Is -- is that able to be done today or are  
16 we going to have to wait?

17 MS. HIBBERT: Like I said off the record, we are  
18 working on getting those invoices together and  
19 redacted in hopes of producing them this evening. I  
20 have not gotten word that those are ready yet. So  
21 currently I'm still hoping to produce them this  
22 evening, but I don't have them right now.

23 BY MS. DICKINSON:

24 Q. Okay. Dr. Miller, have I been respectful

1 to you today?

2 MS. HIBBERT: Objection to form.

3 THE WITNESS: Objection to form?

4 BY THE WITNESS:

5 A. Have you been respectful to me, yes,  
6 ma'am.

7 MS. DICKINSON: Thank you. I don't think I have  
8 any further questions, again, unless your counsel asks  
9 something I need to clean up. So thank you very much  
10 for your time here today. I really appreciate it.

11 THE WITNESS: You are very welcome. Thank you  
12 too.

13 EXAMINATION

14 BY MS. HIBBERT:

15 Q. Just a couple of quick questions,  
16 Dr. Miller.

17 Earlier today you talked about a couple of  
18 sample expert reports that were sent to you by  
19 counsel.

20 Do you recall that testimony?

21 A. I believe I do.

22 Q. Did you rely on --

23 A. Do you want to sit over there or I'll  
24 just --

1 Q. No.

2 A. -- I'll just not make eye contact with  
3 you.

4 MS. DICKINSON: I think she wants you to look at  
5 the video.

6 THE WITNESS: Yeah, yeah.

7 BY MS. HIBBERT:

8 Q. Did you rely on your review of any of  
9 those sample expert reports in forming your opinions  
10 that you are offering in this case?

11 A. Oh, absolutely not. They -- they were --  
12 they had no -- no material basis.

13 Q. Earlier, Dr. Miller, you discussed some  
14 limited engagements that you have had with various  
15 pharmaceutical manufacturers as well as a drug testing  
16 company.

17 Do you recall that testimony?

18 A. Yes, ma'am.

19 Q. Have any of those limited engagements  
20 influenced the opinions that you are offering in this  
21 case in any way?

22 MS. DICKINSON: Objection; form.

23 BY THE WITNESS:

24 A. I was really, really trying to understand

1     how the answer could possibly be yes, and it's just  
2     absolutely no, not at all.   It's no.

3             MS. HIBBERT:   Those are all of the questions  
4     that I have for you, Dr. Miller.   Thank you.

5             THE WITNESS:   Oh, my goodness.   Thank you.

6             MS. DICKINSON:   I have nothing further.   You are  
7     free.   Thank you.

8             THE VIDEOGRAPHER:   We are off the record at  
9     4:16 p.m.

10                             (Time Noted:   4:16 p.m.)

11                             FURTHER DEPONENT SAITH NAUGHT.

12

13

14

15

16

17

18

19

20

21

22

23

24



1 REPORTER'S CERTIFICATE

2

3 I, JULIANA F. ZAJICEK, C.S.R. No. 84-2604,

4 a Certified Shorthand Reporter, do hereby certify:

5 That previous to the commencement of the  
6 examination of the witness herein, the witness was  
7 duly sworn to testify the whole truth concerning the  
8 matters herein;

9 That the foregoing deposition transcript  
10 was reported stenographically by me, was thereafter  
11 reduced to typewriting under my personal direction and  
12 constitutes a true record of the testimony given and  
13 the proceedings had;

14 That the said deposition was taken before  
15 me at the time and place specified;

16 That I am not a relative or employee or  
17 attorney or counsel, nor a relative or employee of  
18 such attorney or counsel for any of the parties  
19 hereto, nor interested directly or indirectly in the  
20 outcome of this action.

21 IN WITNESS WHEREOF, I do hereunto set my  
22 hand on this 5th day of June, 2019.

23

24 JULIANA F. ZAJICEK, Certified Reporter

1 DEPOSITION ERRATA SHEET

2

3

4 Case Caption: In Re: National Prescription

5 Opiate Litigation

6

7 DECLARATION UNDER PENALTY OF PERJURY

8

9 I declare under penalty of perjury that I  
10 have read the entire transcript of my Deposition taken  
11 in the captioned matter or the same has been read to  
12 me, and the same is true and accurate, save and except  
13 for changes and/or corrections, if any, as indicated  
14 by me on the DEPOSITION ERRATA SHEET hereof, with the  
15 understanding that I offer these changes as if still  
16 under oath.

17

18 MICHAEL M. MILLER, M.D.

19

20 SUBSCRIBED AND SWORN TO

21 before me this day

22 of , A.D. 20\_\_.

23

24 Notary Public

1 DEPOSITION ERRATA SHEET

2 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

3 \_\_\_\_\_

4 Reason for change: \_\_\_\_\_

5 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

6 \_\_\_\_\_

7 Reason for change: \_\_\_\_\_

8 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

9 \_\_\_\_\_

10 Reason for change: \_\_\_\_\_

11 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

12 \_\_\_\_\_

13 Reason for change: \_\_\_\_\_

14 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

15 \_\_\_\_\_

16 Reason for change: \_\_\_\_\_

17 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

18 \_\_\_\_\_

19 Reason for change: \_\_\_\_\_

20 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

21 \_\_\_\_\_

22 Reason for change: \_\_\_\_\_

23 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

24 MICHAEL M. MILLER, M.D.

1 DEPOSITION ERRATA SHEET

2 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

3 \_\_\_\_\_

4 Reason for change: \_\_\_\_\_

5 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

6 \_\_\_\_\_

7 Reason for change: \_\_\_\_\_

8 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

9 \_\_\_\_\_

10 Reason for change: \_\_\_\_\_

11 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

12 \_\_\_\_\_

13 Reason for change: \_\_\_\_\_

14 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

15 \_\_\_\_\_

16 Reason for change: \_\_\_\_\_

17 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

18 \_\_\_\_\_

19 Reason for change: \_\_\_\_\_

20 Page No. \_\_\_\_\_ Line No. \_\_\_\_\_ Change to: \_\_\_\_\_

21 \_\_\_\_\_

22 Reason for change: \_\_\_\_\_

23 SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

24 MICHAEL M. MILLER, M.D.